House of Representatives

General Assembly

File No. 196

February Session, 2014

Substitute House Bill No. 5053

House of Representatives, March 31, 2014

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT STRENGTHENING CONNECTICUT'S INSURANCE INDUSTRY COMPETITIVENESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) As used in this section and sections 2 to 14, inclusive, of this act:

(1) "Adoption date" means the date a mutual insurer's board of directors adopts a plan of reorganization;

(2) "Commissioner" means the Insurance Commissioner;

(3) "Converted company" means the domestic stock corporation into which a mutual holding company has been converted in accordance with the provisions of section 11 of this act;

(4) "Converting company" means a mutual holding company that is converting into a domestic stock corporation in accordance with the provisions of section 11 of this act;

(5) "Effective date" means the date upon which the reorganization of the mutual insurer is effective, as provided in subsection (g) of section 2 of this act;

(6) "Equity rights" means the rights conferred to members, by law or by a mutual holding company's articles of incorporation, in the equity of such company, including the right to participate in any distribution of such company's equity or assets. "Equity rights" do not include any rights expressly conferred solely by the terms of a policy except for the right to vote;

(7) "Institution" means a corporation, stock corporation, limited liability company, association, business trust, partnership or any similar entity;

(8) "Intermediate stock holding company" means an institution (A) of which at least fifty-one per cent of its voting stock is owned from the effective date, directly or through another intermediate stock holding company, by a mutual holding company, and (B) that owns from the effective date, directly or indirectly, at least fifty-one per cent of the voting stock of at least one reorganized insurer. For purposes of calculating the percentage of voting stock, any issued and outstanding securities of the reorganized insurer or any intermediate stock holding company that are convertible into voting stock are considered voting stock;

(9) "Member" means, (A) with respect to a reorganizing insurer, a policyholder of such insurer, and (B) with respect to a mutual holding company, a person entitled to vote, by law or by the mutual holding company's charter or bylaws, at such company's meetings;

(10) "Membership interests" means the rights other than equity rights conferred to members, by law or by a mutual holding company's charter or bylaws. "Membership interests" do not include any rights expressly conferred solely by the terms of a policy;

(11) "Mutual holding company" means a corporation organized in

accordance with sections 2 and 3 of this act, (A) that, from the effective date, owns, directly or through one or more intermediate stock holding companies, at least fifty-one per cent of the voting stock of one or more reorganized insurers, (B) that is not authorized to issue voting stock, and (C) whose articles of incorporation contain the provisions set forth in subsection (c) of section 3 of this act. For purposes of calculating the percentage of voting stock, any issued and outstanding securities of the reorganized insurer or any intermediate stock holding company that are convertible into voting stock are considered voting stock;

(12) "Mutual insurer" has the same meaning as provided in section 38a-1 of the general statutes;

(13) "Officer" means an individual elected to such position by the board of directors of the mutual holding company, intermediate stock holding company or reorganized insurer, as applicable;

(14) "Outside director" means a director of the mutual holding company, intermediate stock holding company or reorganized insurer, who is not an officer or employee of such company or insurer;

(15) "Person" means an individual, a public or private corporation, a stock corporation, a limited liability company, an association, a business trust, a partnership, a board of directors, an estate, a trustee, a fiduciary, or any similar entity, or the state or any political subdivision of the state;

(16) "Plan of conversion" means a plan adopted by a mutual holding company in accordance with section 11 of this act;

(17) "Plan of reorganization" means a plan adopted by a mutual insurer in accordance with section 2 of this act;

(18) "Policy" means an individual or group insurance policy, an individual or group annuity contract or a fidelity or surety bond, issued by a mutual insurer. "Policy" does not include a reinsurance contract;

(19) "Reorganized insurer" means the domestic stock insurer into which a mutual insurer has been reorganized in accordance with the provisions of section 2 of this act;

(20) "Reorganizing insurer" means a domestic mutual insurer that is reorganizing under a plan of reorganization in accordance with the provisions of section 2 of this act;

(21) "Stock purchase right" means a nontransferable right, granted to each policyholder of the reorganized insurer that has been a policyholder of the reorganizing insurer for at least one year prior to the effective date, to acquire stock in the reorganized insurer or in any intermediate stock holding company affiliated with such insurer if such insurer or company conducts an initial public offering of voting stock;

(22) "Voting stock" means securities of any class or any ownership interest having voting power for the election of directors, trustees or management of a person. "Voting stock" does not include securities having voting power only because of the occurrence of a contingency.

Sec. 2. (NEW) (*Effective from passage*) (a) A domestic mutual insurer may reorganize, in accordance with this section and section 3 of this act, as a domestic stock insurer owned, directly or indirectly, by a mutual holding company.

(b) (1) A domestic mutual insurer seeking such reorganization shall propose a plan of reorganization that includes the reasons for the proposed reorganization and provisions for:

(A) Amending the domestic mutual insurer's articles of incorporation to reorganize such insurer into a domestic stock corporation, including provisions governing an initial voting stock offer, if any;

(B) Forming a mutual holding company, including such company's acquisition, directly or through one or more intermediate stock holding companies, of at least fifty-one per cent of the voting stock of

the reorganized insurer;

(C) The succeeding of the rights, properties, debts, obligations and liabilities of the mutual insurer;

(D) The members of the reorganizing insurer becoming members of the mutual holding company;

(E) The members of the reorganizing insurer with policies in force on the effective date having equity rights and membership interests in the mutual holding company; and

(F) Any proposed fees, commissions or other consideration to be paid to any person for aiding, promoting or assisting, in any manner, such reorganization.

(2) A plan of reorganization may also include provisions restricting the ability of any person or persons acting in concert from directly or indirectly acquiring or offering to acquire the beneficial ownership of ten per cent or more of any class of voting stock of the reorganized insurer or any entity that directly or indirectly controls such insurer.

(3) The proposed plan of reorganization shall be approved by an affirmative vote of three-fourths of the board of directors of the domestic mutual insurer.

(4) Upon approval by its board of directors, a domestic mutual insurer seeking such reorganization shall submit to the Insurance Commissioner an application, in a form prescribed by the commissioner, that is executed by an authorized officer of such insurer. Such application shall be accompanied by the following:

(A) The proposed plan of reorganization;

(B) The proposed articles of incorporation of each corporation that will be a constituent corporation of the reorganization;

(C) The proposed bylaws of each corporation that will be a constituent corporation of the reorganization;

(D) The names and biographies of the officers and directors of each corporation that will be a constituent corporation of the reorganization;

(E) A resolution of the board of directors of the mutual insurer and certified by the secretary of such board, authorizing the reorganization;

(F) Financial statements in a form acceptable to the commissioner giving effect to the reorganization, for the mutual holding company and any corporation that will be a constituent corporation of the reorganization and that will experience a change in capitalization due to the reorganization;

(G) A draft of the materials the domestic mutual insurer intends to mail to its members to seek their approval of the plan, including a summary of the plan of reorganization; and

(H) Any other information the commissioner deems necessary to the commissioner's review of the proposed plan of reorganization.

(c) (1) The commissioner shall hold a public hearing on the reasons for and purpose of such reorganization, the fairness of the terms and conditions of the proposed plan of reorganization and whether such reorganization is in the best interest of the domestic mutual insurer, is fair and equitable to its members and is not detrimental to the insuring public.

(2) The reorganizing insurer shall mail a notice of the public hearing to each member at such member's last known mailing address as shown in the insurer's records. The notice shall (A) be mailed at least sixty days prior to the date of the hearing, (B) include the date, time, place and purpose of the hearing, and (C) be accompanied or preceded by a true and complete copy of the proposed plan of reorganization or summary thereof approved by the commissioner and any other explanatory information or materials the commissioner may require. In addition, the reorganizing insurer shall provide notice of the date, time, place and purpose of the hearing by publication in three

newspapers having general circulation, one of which shall be in the county in which the principal office of the reorganizing insurer is located, and two which shall be in other municipalities within or without the state and approved by the commissioner. Such notice shall be published not less than fifteen days and not more than sixty days prior to the hearing and shall be in a form approved by the commissioner. Any director, officer, employee or member of the reorganizing insurer shall have the right to appear and be heard at the hearing.

(3) (A) The commissioner shall approve or disapprove the proposed plan of reorganization, in writing, not later than sixty days after the conclusion of the public hearing held under subdivision (1) of this subsection. The commissioner shall approve the proposed plan of reorganization if the commissioner finds that: (i) The proposed reorganization is in the best interest of the reorganizing insurer; (ii) the plan is fair and equitable to the members of the reorganizing insurer; (iii) the plan will not substantially lessen competition in any line of insurance business; (iv) the plan provides for the enhancement of the operations of the reorganizing insurer; (v) the plan, when completed, provides for the reorganized insurer's paid-in capital stock to be in an amount at least equal to the minimum paid-in capital stock and the net surplus required of a new domestic stock insurer upon such domestic stock insurer's initial authorization to transact like kinds of insurance; and (vi) the plan complies with the provisions of this section and sections 3 to 7, inclusive, of this act.

(B) The commissioner may engage the services of Insurance Department personnel and private consultants to assist the commissioner in determining whether a plan of reorganization meets the requirements of this section. The domestic mutual insurer submitting such plan shall pay all reasonable costs related to such determination, including the costs associated with such department personnel.

(C) Upon approval by the commissioner, the reorganizing insurer

shall file with the commissioner the approved plan of reorganization.

(D) The commissioner may request such insurer to modify the proposed plan of reorganization if the commissioner finds that such plan does not meet the requirements for approval as set forth in subparagraph (A) of this subdivision. Such request for modification shall not prevent such insurer from withdrawing such plan pursuant to subsection (e) of this section.

(E) If the commissioner disapproves the proposed plan of reorganization, such disapproval shall be in writing and shall set forth the reasons for such disapproval. Within fifteen days after receipt of such disapproval, the reorganizing insurer may request a hearing. The commissioner shall provide such hearing within fifteen days after such request.

(d) (1) Upon approval by the commissioner of the proposed plan of reorganization, the board of directors, the chairperson of the board of directors or the president of the reorganizing insurer shall call a members' meeting to present and hold a vote on the plan of reorganization. Such meeting shall be held not earlier than thirty days after the date of the public hearing held under subsection (c) of this section. The plan shall be approved by an affirmative vote of two-thirds of the members of the reorganizing insurer.

(2) (A) The reorganizing insurer shall mail a notice of the meeting to each member at such member's last known mailing address as shown in the insurer's records. The notice shall (i) be mailed at least sixty days prior to the date of the meeting and may be combined with the public hearing notice required under subsection (c) of this section, (ii) include the date, time, place and purpose of the meeting, and (iii) be accompanied or preceded by (I) a true and complete copy of the plan of reorganization or summary thereof approved by the commissioner, (II) the financial statements described in subparagraph (F) of subdivision (4) of subsection (b) of this section, (III) a description of material risks and benefits to members' interests, (IV) any information pertaining to an initial offering of voting stock included in the plan of

reorganization, and (V) any other explanatory information or materials the commissioner may require.

(B) (i) Each member whose name appears in the reorganizing insurer's records as a member on the adoption date shall be entitled to vote on the proposed plan of reorganization. Each such member shall vote by written ballot cast in person, by mail or by proxy.

(ii) The commissioner shall have the power, to the extent the commissioner deems necessary to ensure a fair and accurate vote and consistent with the provisions of this section and sections 3 to 7, inclusive, of this act, to prescribe and supervise the procedures for such vote. Such powers include, but are not limited to, the supervision and regulation of (I) the determination of members entitled to notice of the meeting and to vote on the proposed plan of reorganization, (II) the provision of notice to members of the meeting and the proposed plan or reorganization, (III) the receipt, custody, safeguarding, verification and tabulation of ballots and proxy forms, and (IV) the resolution of any disputes arising from such vote.

(e) (1) At any time before the effective date, the reorganizing insurer may, by an affirmative vote of three-fourths of its board of directors, amend or withdraw the plan of reorganization. With respect to an amended plan of reorganization, all references to a plan of reorganization in sections 1 to 14, inclusive, of this act, shall be deemed to include such plan as amended. The reorganizing insurer shall submit any such amendment to the commissioner for approval. Upon approval by the commissioner, the reorganizing insurer shall file with the commissioner the approved plan of reorganization as amended.

(2) No amendment shall (A) be deemed to change the adoption date, or (B) change the plan of reorganization in a manner the commissioner determines is prejudicial to the members of the reorganizing insurer.

(3) (A) If the amendment is submitted after the public hearing held pursuant to subsection (c) of this section, the commissioner shall hold another public hearing on the plan of reorganization as amended, in

accordance with the notice requirements set forth in subsection (c) of this section.

(B) If the amendment is submitted after the members have approved the plan of reorganization as set forth in subsection (d) of this section, the board of directors, the chairperson of the board of directors or the president of the reorganizing insurer shall call another members' meeting, in accordance with the notice requirements set forth in subsection (d) of this section, to present and hold a vote on the plan of reorganization as amended. The plan of reorganization as amended shall be approved by an affirmative vote of two-thirds of the members of the reorganizing insurer.

(f) Upon approval by the members of the reorganizing insurer, the commissioner shall issue a new certificate of authority to the reorganized insurer and approve the articles of incorporation of the mutual holding company and the articles of incorporation of the reorganized insurer. The commissioner shall provide to the mutual holding company and the reorganized insurer certificates of approval for the articles of incorporation in such form as the commissioner prescribes.

(g) (1) The plan of reorganization shall be effective upon the date the mutual holding company and the reorganized insurer both file their articles of incorporation with the Secretary of the State, or upon such later date as is specified in the plan of reorganization or the articles of incorporation of the reorganized insurer, except that such later date shall not be more than thirty days after the date the mutual holding company files its articles of incorporation with said Secretary.

(2) If the name of a reorganizing insurer includes the word "mutual", the reorganized insurer may continue to use such word in its name unless the commissioner finds the continued use of such word is likely to mislead or deceive the public.

(3) From the effective date, (A) at least fifty-one per cent of the issued and outstanding voting stock of the reorganized insurer shall be

owned, directly or through another intermediate stock holding company, by the mutual holding company, and (B) at least fifty-one per cent of the issued and outstanding voting stock of any intermediate holding company shall be owned, directly or through another intermediate stock holding company, by the mutual holding company. For purposes of calculating the percentage of issued and outstanding voting stock, any issued and outstanding securities of the reorganized insurer or any intermediate stock holding company that are convertible into voting stock are considered voting stock.

(4) Upon the effective date:

(A) The reorganizing insurer shall immediately become a domestic stock insurer, which shall be a continuation of the corporate existence of the reorganizing insurer;

(B) All rights of any person to (i) vote on any matter concerning the reorganizing insurer, or (ii) share in any distribution of or receive any consideration based on the surplus of the reorganizing insurer in a conservation, liquidation or dissolution proceeding or under such insurer's articles of incorporation or bylaws or the general statutes, shall be extinguished, except that any rights expressly conferred solely by the terms of a policy shall not be extinguished;

(C) The members of the reorganizing insurer shall immediately become members of the mutual holding company, except that in the case of a group annuity contract issued by a reorganizing insurer that is a domestic mutual life insurer, the group policyholder only shall become a member of the mutual holding company. The rights bestowed by virtue of such membership shall continue only as long as the related policy remains in force;

(D) The members of the reorganizing insurer whose policies in force on the effective date confer the right to vote shall immediately have equity rights in the mutual holding company. Such equity rights shall continue only as long as the related policy remains in force; and

(E) All of the voting stock initially issued by the reorganized insurer shall be owned, directly or through one or more intermediate stock holding companies, by the mutual holding company.

(5) Policyholders of policies that confer the right to vote and issued after the effective date by the reorganized insurer shall be members of and have equity rights in the mutual holding company.

(h) Except as provided in the plan of reorganization approved by the commissioner, no person shall receive any fee, commission or other consideration, other than such person's regular salary and compensation, for aiding, promoting or assisting, in any manner, a reorganization under this section and sections 3 to 14, inclusive, of this act. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys, accountants, actuaries and other individuals who are directors or officers of the reorganizing insurer for services performed in the independent practice of their professions.

Sec. 3. (NEW) (*Effective from passage*) (a) No mutual holding company shall engage in the business of insurance.

(b) A mutual holding company shall comply with all applicable provisions of law relating to the powers, duties and liabilities of corporations.

(c) A mutual holding company's articles of incorporation shall contain the following provisions that state:

(1) The company is a mutual holding company organized under this section and section 2 of this act;

(2) One purpose of the company is to own, directly or through one or more intermediate stock holding companies, at least fifty-one per cent of the voting stock of one or more reorganized insurers;

(3) The company is not authorized to issue voting stock;

(4) The company's members have the rights specified in subdivisions (4) and (5) of subsection (g) of section 2 of this act and in the company's articles of incorporation and bylaws; and

(5) The company's assets and liabilities are subject to inclusion, to the extent authorized under sections 1 to 14, inclusive, of this act, in the estate of a reorganized insurer of which the company owns voting stock in any proceeding brought against the reorganized insurer under chapter 704c of the general statutes.

(d) A mutual holding company shall file with the commissioner, not later than thirty days after the adoption of any amendment to its bylaws, a copy of such amendment, certified by such company's secretary under such company's corporate seal.

(e) A mutual holding company may hold, directly or indirectly, multiple subsidiaries including multiple intermediate stock holding companies. An intermediate stock holding company may hold, directly or indirectly, multiple subsidiaries including multiple reorganized insurers. A mutual holding company and its subsidiaries and affiliates shall be deemed members of an insurance holding company system, as defined in section 38a-129 of the general statutes, and the provisions of sections 38a-129 to 38a-140, inclusive, of the general statutes shall apply to the extent such provisions do not conflict with the provisions in sections 1 to 14, inclusive, of this act.

(f) No mutual holding company shall make any payment of income, dividends contingent upon an apportionment of profits or any other distribution of profits except to the extent provided in such company's articles of incorporation or as otherwise directed or approved by the commissioner.

(g) Membership interests in a mutual holding company shall not be considered a security, as defined in section 36b-3 of the general statutes. A description of the membership interests and related factual disclosures shall not be deemed inducements to buy insurance in violation of section 38a-816 or 38a-825 of the general statutes, and a

recipient of such description and related factual disclosures shall not be deemed to be in violation of the provisions of section 38a-825 of the general statutes.

(h) (1) The mutual holding company shall hold an annual meeting and shall mail a notice of the meeting to each member at such member's last known mailing address as shown in the company's records. The notice shall be mailed at least sixty days prior to the date of the meeting.

(2) Members of a mutual holding company may vote by proxies dated and executed within ninety days of, and returned to and recorded on the books of the company not later than seven days before, the meeting at which such proxies are to be used. Unless otherwise provided in the articles of reorganization or bylaws of the reorganizing insurer, each member of a mutual holding company shall be entitled to one vote.

(3) Unless a greater percentage for approval is required by law or specified in a mutual holding company's articles of incorporation, any required approval by the members shall be by a majority vote of the members voting.

(i) No mutual holding company shall transfer its domicile to another state for a period of five years after the effective date without the approval of the commissioner.

(j) (1) A mutual holding company may specify in its articles of incorporation or its bylaws that its directors may be divided into two or more classes, which terms of office shall expire at different times, provided no term of office shall be longer than six years. If a mutual holding company does not specify such provision in its articles of incorporation or its bylaws, the term of office for each director of such company shall be one year.

(2) Upon the expiration of a director's term of office, such director shall continue to serve until such director's successor has been elected

and qualified. Any vacancy on the board that occurs prior to the expiration of a director's term of office shall be filled by a majority vote of the remaining directors, notwithstanding any quorum requirements. Any director so elected shall hold office until the next annual meeting.

Sec. 4. (NEW) (*Effective from passage*) (a) A reorganized insurer may amend its articles of incorporation that have been adopted pursuant to a plan of reorganization and filed with the Secretary of the State, in accordance with subdivision (1) of subsection (g) of section 2 of this act, after the effective date in accordance with the provisions of chapter 601 of the general statutes.

(b) (1) A reorganized insurer may amend its plan of reorganization after the effective date. The insurer shall comply with the following:

(A) Approval by the board of directors of the reorganized insurer by a majority vote;

(B) Submission of the proposed amendment to the commissioner, in writing, in accordance with the provisions of subdivision (4) of subsection (b) of section 2 of this act; and

(C) Approval by members of the mutual holding company that were entitled to vote, as members of the former domestic mutual insurer, on the original plan of reorganization. Such approval shall be by a majority vote of the members voting. The board of directors, the chairperson of the board of directors or the president of the mutual holding company shall call a meeting for members entitled to vote, pursuant to the articles of incorporation or bylaws of the mutual holding company, to present and hold a vote on the proposed amendment. Each such member shall vote by written ballot cast in person, by mail or by proxy.

(2) If a proposed amendment under subdivision (1) of this subsection would adversely affect the rights of one or more, but not all, classes of members, only the members of each class whose rights would be adversely affected by the proposed amendment shall vote on

the proposed amendment.

(3) Any such amendment shall take effect upon filing with the commissioner after compliance with and approval as required under subdivision (1) of this subsection.

(c) (1) At any time before the plan amendment becomes effective, the reorganized insurer may, by a majority vote of its board of directors, amend or withdraw the plan amendment. For an amendment to a plan amendment, all references in sections 1 to 14, inclusive, of this act to a plan amendment shall be deemed to refer to the plan amendment as amended. The reorganizing insurer shall submit any such amendment to the commissioner for approval.

(2) No amendment shall (A) be deemed to change the adoption date of the plan amendment, or (B) change the plan of reorganization in a manner the commissioner determines is prejudicial to the affected members.

Sec. 5. (NEW) (*Effective from passage*) (a) (1) A reorganized insurer may, either pursuant to the plan of reorganization or upon the prior approval of the commissioner, on any one or more occasions on or after the effective date, transfer assets or liabilities, including any one or more of its subsidiaries, to the mutual holding company or to one or more persons owned or controlled by the mutual holding company, except that the liabilities so transferred in either a single instance or in the aggregate shall not be greater than the assets so transferred. The commissioner shall approve such a proposed transfer unless the commissioner finds that the transfer would materially adversely affect the ability of the reorganized insurer to meet its obligations under its policies.

(2) The provisions of section 38a-136 of the general statutes shall not apply to any transfer made under this section.

(b) A reorganized insurer shall not acquire subsidiaries if the total adjusted capital, as defined in subsection (d) of section 38a-72 of the

general statutes, of such insurer is less than three hundred per cent of its authorized control level risk-based capital, as defined in section 38a-72-1 of the regulations of Connecticut state agencies, as of any calendar year-end after the reorganization effective date, for as long as such deficiency continues, without prior notice to and review by the commissioner.

Sec. 6. (NEW) (*Effective from passage*) (a) In the case of a reorganizing insurer that is a mutual life insurer, upon the effective date the reorganizing insurer shall, at its option, either:

(1) (A) Establish a closed block for policyholder dividend purposes only, consisting of all participating individual policies of the reorganizing insurer in force on the effective date and for which the insurer had an experience-based dividend scale payable in the year in which the plan of reorganization was adopted. On or before the effective date, such insurer shall allocate assets to such closed block in an amount that produces cash flows, together with anticipated revenues from the closed block business that is sufficient to support the closed block business, including provision for payment of claims, expenses and taxes specified in the plan of reorganization and continuation of dividend scales in effect on the adoption date, if the experience underlying such scales continues. No policies entering into force after the effective date shall be included in the closed block; and

(B) May provide, with the approval of the commissioner, under its terms for the establishment of the closed block, for conditions under which the reorganized insurer may cease to maintain the closed block and allocation of assets thereto, provided the policies constituting closed block business shall remain obligations of the reorganized insurer and dividends on such policies shall be apportioned by the board of directors of the reorganized insurer in accordance with the terms of such policies and any applicable provisions of law; or

(2) Provide an alternative practice to subdivision (1) of this subsection that protects the contractual rights of individual policyholders of the reorganizing insurer with policies in force on the

effective date, if the commissioner determines that such alternative is substantially as protective of the interests of individual participating policyholders as the establishment of a closed block pursuant to subdivision (1) of this section.

(b) The equity interest of the policyholders of the reorganized insurer shall be equal in the aggregate to the value of the entire capital and surplus of the mutual holding company, excluding any funds required to be held in segregated accounts by federal law. Such equity interest shall be the basis for consideration to policyholders in the event the mutual holding company converts into a domestic stock corporation as set forth in subparagraph (B) of subdivision (1) of subsection (b) of section 11 of this act.

(c) At the end of the third year following the year of reorganization and at the end of each third year thereafter or more frequently as determined by the commissioner, an independent accounting or actuarial firm shall provide a report to the commissioner, the board of directors of the mutual holding company and the board of directors of the reorganized insurer attesting to whether or not the closed block and related assets, or alternative practice pursuant to subdivision (2) of subsection (a) of this section, has been administered in accordance with the plan of reorganization. Such firm shall take into consideration the dividend payments to policyholders resulting from the closed block and any other relevant factors. The reorganized insurer shall pay the expenses incurred in retaining the independent accounting or actuarial firm. Such report shall be completed and delivered to the commissioner, the board of directors of the mutual holding company and the board of directors of the reorganized insurer not later than the close of business on April first following the end of the period for which such report is being provided.

Sec. 7. (NEW) (*Effective from passage*) (a) (1) The offering of voting stock by a reorganized insurer or intermediate stock holding company to any person other than the mutual holding company or a wholly owned subsidiary thereof, which offering is the first to occur after the

effective date of the plan of reorganization, shall be made only in accordance with such provisions as the plan of reorganization may contain governing such an initial offering or with the prior approval of the commissioner after submission of an application by the proposed issuer. The commissioner shall approve any such application unless the commissioner finds, (A) in the case of a public offering, that the offering would not be conducted in a manner generally consistent with customary practices for initial public offerings to the extent reasonably comparable, or (B) in the case of any other offering, that the offering would be prejudicial to the members of the mutual holding company. Nothing in this subsection shall prohibit the filing of a registration statement with the Securities and Exchange Commission or the Secretary of the State prior to such approval.

(2) The commissioner may engage the services of Insurance Department personnel and private consultants to assist the commissioner in determining whether an application under subdivision (1) of this subsection meets the requirements of this section. The proposed issuer submitting such application shall pay all reasonable costs related to such determination, including the costs associated with such department personnel.

(b) For purposes of this section, any securities of the reorganized insurer or any intermediate stock holding company that are convertible into voting stock shall be considered voting stock.

(c) All references to a specified percentage of voting stock of any person means securities having the specified percentage of the voting power in that person for the election of directors, trustees or management of that person, other than securities having voting power only because of the occurrence of a contingency.

(d) No stock purchase right shall provide for a purchase of less than fifty shares of the common stock being offered in the public offering. The price per share shall be equal to the public offering price. In the event that the exercise of such right exceeds fifty per cent of the number of shares being offered to the public or such lesser percentage

as may be approved by the commissioner, exercise of such stock purchase right shall be subject to proration, subject to a minimum of fifty shares. A stock purchase right shall be subject to any exclusions or limitations authorized by law applicable to particular classes of policyholders.

Sec. 8. (NEW) (*Effective from passage*) (a) (1) Until six months after the completion of an initial public offering, private equity placement or the first issuance of public or private stock or securities convertible into voting stock of a reorganized insurer or an intermediate stock holding company, to any person other than the mutual holding company or an intermediate stock holding company, neither the reorganized insurer nor an intermediate stock holding company shall award any stock options or stock grants to persons who are officers or directors of the mutual holding company, the reorganized insurer or an intermediate stock holding company, except if a reorganized insurer or its intermediate stock holding company distributes stock purchase rights to the policyholders of a reorganized insurer in connection with a public offering of stock, then officers and directors who are policyholders of such reorganized insurer shall receive and may exercise such stock purchase rights on the same basis as all other such policyholders.

(2) Until two years after the end of the six-month period set forth in subdivision (1) of this subsection, no officer, director or outside director of the mutual holding company, intermediate stock holding company and reorganized insurer shall own beneficially, in the aggregate, more than five per cent of the voting stock of the intermediate stock holding company or reorganized insurer.

(3) After the two-year period set forth in subdivision (2) of this subsection, no officer or director of the mutual holding company, intermediate stock holding company or reorganized insurer shall own beneficially, in the aggregate, more than eighteen per cent of the voting stock of the intermediate stock holding company or reorganized insurer, except that the commissioner may find, in the event of a

distress situation, that beneficial ownership of more than eighteen per cent in the aggregate by officers or directors is necessary and appropriate.

(4) No person shall, directly or indirectly, offer to acquire or acquire, in any manner, beneficial ownership of more than ten per cent of any class of voting stock of the reorganized insurer, an intermediate stock holding company or any other institution that owns, directly or indirectly, a majority of the voting stock of the reorganized insurer, without the prior approval of the commissioner.

(b) (1) If a mutual holding company elects to cause an intermediate stock holding company or a reorganized insurer to conduct an initial public offering, initial private equity placement or the first issuance of public or private stock or securities convertible into voting stock, such company shall, subject to any limitations under law applicable to particular classes of policyholders, cause each eligible person to receive stock purchase rights in connection with such initial offering or issuance, unless a committee consisting of such company's outside directors determines by an affirmative vote of two-thirds that such stock purchase right offering would not be in the best interests of the members of such company. Such determination shall be subject to approval by the commissioner.

(2) Except in the event of death or disability of such officer or director, no officer or director of a mutual holding company, intermediate stock holding company or reorganized insurer who holds voting stock or securities convertible into voting stock shall sell such stock or securities for a period of at least one year following the date of an initial offering or issuance of such stock or securities.

(c) (1) Nothing in sections 1 to 14, inclusive, of this act shall prevent a mutual holding company, an intermediate stock holding company or a reorganized insurer from issuing stock of the intermediate stock holding company or the reorganized insurer to a trust, qualified under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to

time, and established in connection with an employee stock ownership plan or other employee benefit plan for employees of the mutual holding company, intermediate stock holding company or reorganized insurer. The stock initially issued to such stock ownership or benefit plan shall not exceed, in the aggregate, five per cent of the stock initially issued.

(2) No individual shall receive more than twelve and one-half per cent of the stock. No director who is not an employee shall receive more than two and one-half per cent of the stock individually or more than fifteen per cent in the aggregate. In no event shall any individual exceed the ownership limitation set forth in subdivision (3) of subsection (a) of this section.

(d) Nothing in this section shall be deemed to prohibit: (1) The purchase for cash of voting stock issued by an intermediate stock holding company or a reorganized insurer by officers, directors, employees, employee stock ownership plans or employee benefit plans of a mutual holding company, an intermediate stock holding company or a reorganizing insurer, in accordance with reasonable classifications of such individuals and plans and at the same price offered to the public in any public offering; or (2) the establishment by a mutual holding company, an intermediate stock holding company or a reorganized insurer of stock option, incentive or share ownership plans customary for publicly traded companies, subject to the limitations set forth in this section.

Sec. 9. (NEW) (*Effective from passage*) (a) Two or more mutual holding companies, at least one of which is a domestic company, may merge or consolidate under the laws of any state into a mutual holding company incorporated under the laws of such state. The resulting company may be a continuing company under the name of one or more of the merged or consolidated companies or a new company. If the continuing or new company is to be a domestic company: (1) It shall be subject to the provisions of sections 2 to 14, inclusive, of this act; (2) its name shall be subject to approval by the commissioner; (3)

the members of any mutual holding company whose existence will cease upon the effective date of such merger or consolidation shall become members of the continuing mutual holding company; and (4) all persons with equity rights in any mutual holding company whose existence will cease upon the effectiveness of such merger or consolidation shall have equity rights in the continuing mutual holding company.

(b) (1) Companies merging or consolidating under this section shall enter into a written agreement for such merger or consolidation prescribing the terms and conditions of such merger or consolidation. Such agreement shall be approved by a majority vote of the board of directors of each domestic company participating in such merger or consolidation and shall be subject to the written approval of the commissioner, who shall consider the fairness of the terms and conditions of the agreement, whether the interests of the members of each domestic mutual holding company that is a party to the agreement are protected and whether the proposed merger or consolidation is in the public interest.

(2) If the continuing or new mutual holding company is to be a domestic company, such agreement shall be (A) executed in duplicate by the president and secretary of each company under its corporate seal, (B) accompanied by copies of the resolutions of each company authorizing the merger or consolidation and the execution of the agreement attested by the recording officer of each company, and (C) submitted to the commissioner with the records required under this subdivision. If it appears to the commissioner that each company has complied with the requirements of this section, the commissioner may certify and approve the agreement. The commissioner shall file one of the duplicates of such agreement with the Secretary of the State, who shall record such agreement and issue a certificate of reincorporation to the continuing company or the new company with the powers retained and specified in the agreement. The commissioner shall retain the other duplicate. No such agreement shall take effect until the commissioner has filed such agreement with the Secretary of the State.

(3) If the continuing or new company is to be a foreign company, such agreement and such other information as the commissioner may require shall be filed with the commissioner and shall not be executed until approved by the commissioner. Upon the commissioner's approval, the new or continuing company shall file with the commissioner, in such form as the commissioner may require, documentary evidence showing the date when the merger or the consolidation becomes effective. If the commissioner finds that such agreement has been filed in accordance with this subdivision, the commissioner shall file with the Secretary of the State a certificate setting forth the merger or consolidation, including the effective date of the merger or consolidation. The corporate existence of the domestic mutual holding company shall cease on said effective date.

(4) The companies merging or consolidating shall each call a special members' meeting for the purpose of presenting and holding a vote on such agreement. Such companies shall provide notice of such meeting to members in a manner prescribed by the commissioner. Such agreement shall be approved by an affirmative vote of two-thirds of the members of each such company as are present and voting at such meeting.

(c) If the continuing or new company is a domestic company, upon such merger or consolidation all rights and properties of the several companies shall accrue to and become the rights and properties of the continuing or new company, which shall succeed to all the obligations and liabilities of the merged or consolidated companies in the same manner as if they had been incurred or contracted by such continuing or new company.

(d) No action or proceeding pending in any court of this state at the time of the merger or consolidation in which any such domestic company is or may be a party shall abate or be discontinued by reason of the merger or the consolidation, but may be prosecuted to final judgment in the same manner as if the merger or the consolidation had not taken place. The continuing or new company may be substituted in

place of any such domestic company by order of the court in which the action or proceeding is pending.

(e) Nothing in this section shall authorize the merger or consolidation of stock companies with mutual holding companies.

Sec. 10. (NEW) (*Effective from passage*) (a) A domestic mutual insurer may reorganize with an existing domestic or foreign mutual holding company, in which case the plan of reorganization of the domestic mutual insurer shall provide that (1) the domestic mutual insurer will become a domestic stock insurer, (2) the members of the domestic mutual insurer will become members of the mutual holding company, (3) the members of the reorganizing insurer whose policies were in force on the effective date shall, as of the effective date, have equity rights in the mutual holding company, and (4) the mutual holding company will acquire, directly or through one or more intermediate stock holding companies, at least fifty-one per cent of the voting stock of the reorganized insurer.

(b) An existing domestic mutual holding company may, with the approval of the commissioner:

(1) Acquire direct or indirect ownership of a converting foreign mutual insurer that becomes a stock insurer in compliance with the laws of its state of domicile; and

(2) Grant membership interests and equity rights to the members or policyholders of a foreign mutual insurer that merges with a direct or indirect domestic or foreign subsidiary of the domestic mutual holding company. Such subsidiary of a domestic mutual holding company may merge with such a foreign mutual insurer pursuant to section 38a-153 of the general statutes, as amended by this act.

(c) In determining whether to approve such acquisition or grant, the commissioner may consider the fairness of the terms and conditions of the transaction, whether the interests of the members of each domestic mutual holding company that is a party to the transaction are

protected and whether the proposed transaction is in the public interest.

Sec. 11. (NEW) (*Effective from passage*) (a) A domestic mutual holding company may convert to a domestic stock corporation pursuant to a plan of conversion.

(b) (1) A domestic mutual holding company seeking such conversion shall propose a plan of conversion that includes the reasons for the proposed conversion and provisions for:

(A) Amending the mutual holding company's articles of incorporation to convert such company to a domestic stock corporation;

(B) Giving each person holding equity rights in the mutual holding company appropriate consideration in exchange for such rights. Such consideration shall be equal, in the aggregate, to the value of the entire capital and surplus of the mutual holding company, excluding any funds required to be held in segregated accounts by federal law and shall be determinable under a fair and reasonable formula approved by the commissioner.

(i) If the plan of conversion provides for the mutual holding company to continue as a surviving corporation after the conversion, then consideration to eligible policyholders shall be in the form of stock, cash or other form of compensation as approved by the commissioner. Distribution of all the stock of the converting company to eligible policyholders, or in the case of certain eligible policyholders other consideration of equivalent value, shall constitute appropriate consideration under this subparagraph.

(ii) If the plan of conversion does not provide for the mutual holding company to continue as a surviving corporation after the conversion, then consideration payable in such form as permitted under this section shall be distributed to eligible policyholders;

(C) Giving each person holding equity rights a preemptive right to

acquire such person's proportionate part of all the proposed capital stock of the converted company and to apply, upon the purchase of such stock, the amount of such person's consideration as determined under subparagraph (B) of this subdivision.

(i) Such plan may provide that (I) such person may not purchase or receive stock pursuant to this section if such stock has an aggregate subscription price of two thousand dollars or less, and (II) such preemptive right shall not apply to such persons who reside in jurisdictions in which the issuance of stock is impossible, would involve unreasonable delay or would require the converting company to incur unreasonable costs, provided any such person shall receive such person's consideration in cash.

(ii) In the case of a plan of conversion in which the appropriate consideration received by persons under subparagraph (B) of this subdivision is stock of a corporation in a transaction authorized under this section, or other consideration as approved by the commissioner, the plan of conversion shall provide either (I) that no member or person holding equity rights in the converting company shall have any preemptive right to acquire any of the proposed capital stock of the converted company or of the proposed parent or other corporation, or (II) for preemptive rights on such other terms as approved by the commissioner;

(D) The offering of shares to persons holding equity rights in the mutual holding company, at a price not greater than that to be offered to others under such plan of conversion;

(E) The payment to each person holding equity rights in the mutual holding company of consideration, which may consist of cash, securities, a certificate of contribution, additional insurance under policies issued by a reorganized insurer or other consideration or any combination of such forms of consideration;

(F) Any proposed fees, commissions or other consideration to be paid to any person for aiding, promoting or assisting, in any manner,

such conversion; and

(G) The effective date of such conversion.

(2) A plan of conversion may also include provisions restricting the ability of any person or persons acting in concert from directly or indirectly acquiring or offering to acquire the beneficial ownership of ten per cent or more of any class of voting stock of the converted company or any entity that directly or indirectly controls such company.

(3) Each person whose name appears in the converting company's records as a person holding equity rights on both the December thirty-first immediately preceding the effective date of such conversion and the date the converting company's board of directors first voted to convert shall be entitled to participate in the distribution of consideration and the purchasing of stock.

(4) The proposed plan of conversion shall be approved by an affirmative vote of three-fourths of the board of directors of the domestic mutual holding company.

(5) Upon approval by its board of directors, the domestic mutual holding company seeking such conversion shall submit the proposed plan of conversion to the Insurance Commissioner.

(c) (1) The commissioner shall hold a public hearing on the reasons for and purpose of such conversion, the fairness of the terms and conditions of the proposed plan of conversion and whether such conversion is in the best interest of the domestic mutual holding company, is fair and equitable to its members and is not detrimental to the insuring public.

(2) The converting company shall mail a notice of the public hearing to each member at such member's last known mailing address as shown in the company's records. The notice shall (A) be mailed at least sixty days prior to the date of the hearing, (B) include the date, time, place and purpose of the hearing, and (C) be accompanied or preceded

by a true and complete copy of the proposed plan of conversion or a summary thereof approved by the commissioner and any other explanatory information or materials the commissioner may require. In addition, the converting company shall provide notice of the date, time, place and purpose of the hearing by publication in three newspapers having general circulation, one of which shall be in the county in which the principal office of the converting company is located, and two which shall be in other municipalities within or without the state and approved by the commissioner. Such notice shall be published not less than fifteen days and not more than sixty days prior to the hearing and shall be in a form approved by the commissioner. Any director, officer, employee or member of the converting company shall have the right to appear and be heard at the hearing.

(3) (A) The commissioner shall approve or disapprove the proposed plan of conversion, in writing, not later than sixty days after the conclusion of the public hearing held under subdivision (1) of this subsection. The commissioner shall approve the proposed plan of conversion if the commissioner finds that: (i) The proposed conversion is in the best interest of the converting company; (ii) the plan is fair and equitable to the members of the converting company; (iii) the plan will not substantially lessen competition in any line of insurance business; (iv) the plan provides for the enhancement of the operations of the converting company; (v) the plan complies with the provisions of this section; and (vi) the converting company has not, (I) through a reduction in volume of new business written, cancellations by a reorganized insurer or any other means, reduced, limited or affected or sought to reduce, limit or affect, the number or identity of the converting company's members or persons holding equity rights in such company that are entitled to participate in such plan, or (II) otherwise secured or attempted to secure any unfair advantage through such plan for individuals comprising the management of such company.

(B) If the commissioner disapproves the proposed plan of

conversion, such disapproval shall be in writing and shall set forth the reasons for such disapproval. Within fifteen days after receipt of such disapproval, the converting company may request a hearing. The commissioner shall provide such hearing within fifteen days after such request.

(4) The commissioner may engage the services of Insurance Department personnel and private consultants to assist the commissioner in determining whether a plan of conversion meets the requirements of this section. The domestic mutual holding company submitting such plan shall pay all reasonable costs related to such determination, including the costs associated with such department personnel.

(5) Upon approval by the commissioner, the converting company shall file with the commissioner the approved plan of conversion.

(d) (1) Upon approval by the commissioner of the proposed plan of conversion, the board of directors, the chairperson of the board of directors or the president of the converting company shall call a members' meeting to present and hold a vote on the plan of conversion. Such meeting shall be held not earlier than thirty days after the date of the public hearing held under subsection (c) of this section. The plan shall be approved by an affirmative vote of two-thirds of the members of the converting company.

(2) The converting company shall mail a notice of the meeting to each member at such member's last known mailing address as shown in the company's records. The notice shall (A) be mailed at least sixty days prior to the date of the meeting and may be combined with the public hearing notice required under subsection (c) of this section, (B) include the date, time, place and purpose of the meeting, and (C) be accompanied or preceded by a true and complete copy of the plan of conversion or a summary thereof approved by the commissioner and any other explanatory information or materials the commissioner may require.

(3) Each member entitled to vote shall vote by written ballot cast in person, by mail or by proxy.

(4) The commissioner shall have the power, to the extent the commissioner deems necessary to ensure a fair and accurate vote and consistent with the provisions of this section, to prescribe and supervise the procedures for such vote. Such powers include, but are not limited to, the supervision and regulation of (A) the determination of members entitled to notice of the meeting and to vote on the proposed plan of conversion, (B) the provision of notice to members of the meeting and proposed plan of conversion, (C) the receipt, custody, safeguarding, verification and tabulation of ballots and proxy forms, and (D) the resolution of disputes arising from such vote.

(e) (1) Upon approval by the members of the converting company, the conversion shall be effective on the date specified in the plan of conversion.

(2) Upon such date, (A) the converting company shall immediately become a domestic stock corporation and all rights and properties of the converting company shall accrue to and become, without any deed or transfer, the rights and properties of the converted company, which shall succeed to all the obligations and liabilities of the converting company, and (B) all membership interests and equity rights in the domestic mutual holding company shall be extinguished.

(f) Except as provided in the plan of conversion approved by the commissioner, no person shall receive any fee, commission or other consideration, other than such person's regular salary and compensation, for aiding, promoting or assisting, in any manner, a conversion under this section. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys, accountants and other individuals who are directors or officers of the converting company for services performed in the independent practice of their professions.

(g) Nothing in this section shall be deemed to prohibit the purchase

for cash, by individuals comprising the management or employee group of a converting company, an intermediate stock holding company or a reorganized insurer, of shares of stock not taken on a preemptive offering by persons holding equity rights, in accordance with reasonable classifications of such individuals and at the same price offered to such persons holding equity rights.

Sec. 12. (NEW) (*Effective from passage*) (a) (1) For a period of ten years from the effective date of a plan of reorganization under section 2 of this act, if any proceedings are brought under chapter 704c of the general statutes or pursuant to such plan of reorganization, naming as a party a domestic stock insurer created as a result of a reorganization authorized under sections 2 to 7, inclusive, of this act, the mutual holding company formed as part of the reorganization shall become a party to such proceedings.

(2) The assets of such mutual holding company, including, but not limited to, its interest in any intermediate stock holding company formed pursuant to sections 2 to 7, inclusive, of this act shall be deemed assets of the estate of the reorganized insurer to the extent necessary to satisfy claims against the reorganized insurer of persons who have claims falling within the priorities established in subdivisions (1) to (4), inclusive, of subsection (a) of section 38a-944 of the general statutes, except that no mutual holding company's contribution to the estate of a reorganized insurer pursuant to this subdivision shall exceed the value of assets, net of liabilities, that such reorganized insurer transferred to the mutual holding company or to one or more persons owned or controlled by the mutual holding company pursuant to subsection (a) of section 5 of this act. Claims of persons in their capacity as members of the mutual holding company shall have the same priority as members of a mutual insurer authorized to do the same kinds of business as the reorganized insurer would have upon the liquidation of such an insurer under section 38a-944 of the general statutes.

(3) A mutual holding company may not dissolve, liquidate or wind

up and dissolve without the prior written approval of the commissioner or the court pursuant to proceedings brought under chapter 704c of the general statutes.

(b) Except as provided in subsections (d) and (e) of this section, an action shall be commenced:

(1) (A) For an action concerning a plan or a proposed plan of reorganization, not later than one year after the plan or proposed plan was filed with the commissioner pursuant to subparagraph (C) of subdivision (3) of subsection (c) of section 2 of this act or six months after the effective date of such plan, whichever is later, or (B) if a plan or proposed plan of reorganization was withdrawn, not later than six months after the date the plan or proposed plan was withdrawn;

(2) (A) For an action concerning a plan amendment or a proposed plan amendment under section 4 of this act, not later than one year after the plan amendment or proposed amendment is filed with the commissioner pursuant to subdivision (3) of subsection (b) of section 4 of this act or six months after the effective date of such amendment, whichever is later, or (B) if a plan amendment or proposed plan amendment was withdrawn, not later than six months after the date such amendment was withdrawn;

(3) For an action arising out of a transfer of assets or liabilities pursuant to section 5 of this act or an offering of voting stock pursuant to subsection (a) of section 7 of this act, which transfer or offering was not contemplated by the plan of reorganization, not later than one year after the date of such transfer or offering;

(4) For an action concerning a plan or proposed plan of conversion under section 11 of this act or any acts taken or proposed to be taken under section 11 of this act, not later than one year after the plan of conversion is filed with the commissioner pursuant to subdivision (5) of subsection (c) of section 11 of this act or six months after the effective date of such plan, whichever is later.

(c) In any action specified in subsection (b) of this section, upon a motion of the mutual holding company, an intermediate stock holding company, the reorganizing insurer or the reorganized insurer that establishes to the satisfaction of the court that a substantial likelihood exists that such action was brought without merit and with an intention to delay or harass, the party that brought such action shall be required to give adequate security for the damages and reasonable expenses, including attorneys' fees, that may be incurred by such company and any other defendants in such action or for which such company may become liable, as a result of or in connection with such action. The mutual holding company, intermediate stock holding company, reorganizing insurer or reorganized insurer shall have recourse to such security in such amount as the court determines upon the termination of such action. The amount of security may from time to time be increased or decreased at the discretion of the court upon a showing that the security provided is or may become inadequate or excessive.

(d) Any action seeking a stay, restraining order, injunction or similar remedy to prevent or delay the closing of any transaction under sections 2 to 14, inclusive, of this act or of any transaction described in a plan of reorganization or a plan of conversion shall be commenced not later than thirty days after the approval of the plan of reorganization by the commissioner pursuant to subparagraph (A) of subdivision (3) of subsection (c) of section 2 of this act, the approval of the commissioner pursuant to subsection (a) of section 5 of this act or subsection (a) of section 7 of this act or approval of the plan of conversion by the commissioner pursuant to subparagraph (A) of subdivision (3) of subsection (c) of section 11 of this act, as applicable.

(e) Any action or proceeding against the commissioner or any other governmental body or officer in connection with any act taken or order issued pursuant to sections 2 to 14, inclusive, of this act shall be commenced not later than thirty days after the date of the taking of such act or the signing of such order.

Sec. 13. (NEW) (*Effective from passage*) All information, documents and copies of such information and documents obtained by or disclosed to the commissioner or any other person in the course of preparing, filing or processing an application to reorganize, merge, consolidate or convert pursuant to sections 2 to 14, inclusive, of this act, other than information or documents distributed to members or filed or submitted as evidence in connection with a public hearing under sections 2 to 14, inclusive, of this act shall (1) be confidential by law and privileged, (2) not be subject to disclosure under section 1-210 of the general statutes, (3) not be subject to subpoena, and (4) not be subject to discovery or admissible in evidence in any civil action. The commissioner shall not make such information, documents or copies public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its subsidiaries and affiliates that would be affected thereby notice and opportunity to be heard, determines that the interests of members, policyholders, security holders or the public will be served by the publication of such information, documents or copies, in which event the commissioner may publish all or any part of such information, documents or copies in such manner as the commissioner deems appropriate. The commissioner may use such information, documents and copies in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

Sec. 14. (NEW) (*Effective from passage*) The commissioner may adopt regulations in accordance with the provisions of chapter 54 of the general statutes to implement the provisions of sections 2 to 13, inclusive, of this act.

Sec. 15. Section 38a-153 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any domestic insurance company may, with the prior approval of the commissioner, merge or consolidate with one or more other domestic insurance companies or with one or more foreign or alien insurance companies that are either authorized to do an insurance

business in this state, or are not authorized to do an insurance business in this state provided the resulting corporation is a corporation of this state and the laws of the other jurisdictions so permit. Prior to approving any such merger or consolidation, the commissioner may hold a hearing upon the fairness of the terms and conditions of the proposed merger or consolidation after such notice as, under the circumstances, the commissioner deems appropriate and shall find that the interests of the policyholders and the interests of the stockholders, if any, are protected. Such merger or consolidation may be effected either in accordance with the provisions of the general statutes relating to merger or consolidation of corporations organized under the general statutes or in accordance with any provisions in the charters of the companies merging or consolidating relating to merger or consolidation. All expenses in connection with the proceedings shall be borne by the resulting corporation.

(b) The domestic or foreign subsidiary of an existing domestic mutual holding company, as defined in section 1 of this act, may, with the prior approval of the commissioner, merge with a foreign mutual insurer in accordance with the provisions of this section.

[(b)**]** (c) In the event of any merger or consolidation **[**which**]** that is for the purpose or has the effect of acquiring control of a domestic insurance company, the provisions of sections 38a-129 to 38a-140, inclusive, shall apply.

Sec. 16. (NEW) (*Effective from passage*) As used in this section and sections 17 to 21, inclusive, of this act:

(1) "Alien insurer" has the same meaning as provided in section 38a-1 of the general statutes;

(2) "Authorized control level risk-based capital" means the number determined in accordance with the risk-based capital formula set forth in subsection (d) of section 38a-72 of the general statutes and regulations adopted thereunder;

(3) "Commissioner" means the Insurance Commissioner;

(4) "Domestic insurer" has the same meaning as provided in section 38a-1 of the general statutes;

(5) "Domestication" or "domesticate" means the reorganization of a United States branch of an alien insurer, in which a domestic insurer succeeds to all the business and assets and assumes all the liabilities of the United States branch;

(6) "State" has the same meaning as provided in section 38a-1 of the general statutes;

(7) "Trusteed assets" means the assets in a trust account established pursuant to section 18 of this act;

(8) "Trusteed surplus" means the aggregate value of the United States branch's general state deposits and trusteed assets deposited in a trust account established pursuant to section 18 of this act plus accrued investment income on such deposits and assets where such interest is collected for trustees by the state, less the aggregate net amount of all of the United States branch's reserves and other liabilities in the United States as determined in accordance with section 19 of this act;

(9) "United States" has the same meaning as provided in section 38a-1 of the general statutes;

(10) "United States branch" means the business unit in this state through which an alien insurer transacts the business of insurance in the United States.

Sec. 17. (NEW) (*Effective from passage*) Unless otherwise provided, all applicable state laws that apply to domestic insurers shall apply to a United States branch established in accordance with sections 18 to 21, inclusive, of this act.

Sec. 18. (NEW) (*Effective from passage*) (a) An alien insurer may use this state as such insurer's state of entry through a United States

branch to transact the business of insurance in the United States by:

(1) Qualifying its United States branch as an insurer licensed to do business in this state in accordance with section 38a-41 of the general statutes; and

(2) Establishing a trust account pursuant to a trust agreement, approved by the commissioner in accordance with subsection (c) of this section, with a qualified United States financial institution, as defined in section 38a-87 of the general statutes, with funds in an amount not less than the minimum capital and surplus or authorized control level risk-based capital, whichever is greater, required to be maintained by a domestic insurer licensed to write the same kind of insurance. Except as provided in subparagraph (H)(i)(III) of subdivision (4) of subsection (c) of this section, such minimum amount shall be maintained in such trust account at all times.

(b) Prior to authorizing a United States branch, the commissioner shall require the alien insurer to:

(1) Comply with the reporting requirements set forth in section 38a-41 of the general statutes;

(2) Submit an English translation, as necessary, of any of the documents required under section 38a-41 of the general statutes; and

(3) Submit to an examination of its affairs at its principal office in the United States, except that the commissioner may accept an examination report of the insurance regulatory official of the country under which laws such insurer is organized.

(c) (1) The trust agreement required under subdivision (2) of subsection (a) of this section shall set forth the terms of such agreement in a deed of trust. Such deed and all subsequent amendments to such deed shall be authenticated in a form and manner prescribed by the commissioner.

(2) No deed of trust or amendment to such deed shall be effective

unless approved by the commissioner upon a finding that:

(A) Such deed or amendment is sufficient in form and conforms with applicable laws;

(B) The trustee or trustees of the trust account are eligible to serve as such; and

(C) Such deed or amendment is adequate to protect the interests of the beneficiaries of the trust. If at any time, after notice and hearing, the commissioner finds that the deed of trust no longer complies with the requirements for approval, the commissioner may withdraw such approval.

(3) The commissioner may approve modifications of or variations in any deed of trust, provided such modifications or variations are not, in the commissioner's judgment, prejudicial to the interests of the residents of this state or to policyholders or creditors in the United States of the United States branch.

(4) The deed of trust shall contain provisions that:

(A) Vest legal title to trusteed assets in the trustee or trustees and their lawfully appointed successors;

(B) Require all assets deposited in the trust be continuously kept within the United States;

(C) Provide for substitution of a new trustee or trustees, subject to approval by the commissioner, in the event of a vacancy;

(D) Require the trustee or trustees to continuously maintain a record of the trusteed assets that is at all times sufficient to identify such assets;

(E) Require the trusteed assets to consist of cash or investments or both and accrued investment income if collectible by the trustee or trustees;

(F) Require the trust to be for the exclusive benefit, security and protection of the policyholders, or the policyholders and creditors in the United States, of the United States branch;

(G) Require the trust to be maintained as long as there is any outstanding liability of the alien insurer arising out of such insurer's insurance transactions in the United States; and

(H) (i) Provide that no withdrawals of assets, other than income as specified in subdivision (5) of this subsection, shall be made or permitted by the trustee or trustees without the approval of the commissioner, except to (I) make deposits required by law in any state for the security or benefit of all policyholders, or policyholders and creditors in the United States, of the United States branch, (II) substitute other assets as permitted by law and at least equal in value and quality to the assets withdrawn, upon the specific written direction of the manager of the United States branch when such manager has been empowered by and is acting pursuant to specific or general written authority previously given to or delegated to such manager by the board of directors of such United States branch, or (III) notwithstanding the minimum amount required to be maintained under subdivision (2) of subsection (a) of this section, transfer assets to an official liquidator or rehabilitator pursuant to an order of a court of competent jurisdiction.

(ii) The approval of the commissioner for a withdrawal of assets under this subparagraph shall not be required if the withdrawal is of trusteed assets deposited in another state and the deed of trust requires the written approval of the insurance regulatory official of such state for such withdrawal, provided the minimum amount required under subdivision (2) of subsection (a) of this section is maintained in the trust. The manager of the United States branch shall notify the commissioner in writing of the nature and amount of any such withdrawal.

(5) The deed of trust may provide that income, earnings, dividends or interest accumulations of the trust assets may be paid to the

manager of the United States branch upon request, provided the minimum amount required under subdivision (2) of subsection (a) of this section is maintained in the trust.

(d) The commissioner may (1) examine the trusteed assets of a United States branch at the alien insurer's expense, and (2) require the trustee or trustees of a trust account of such United States branch to file a statement, in such form as the commissioner prescribes, certifying the amounts and assets of the trust account.

(e) The commissioner may revoke the license of an alien insurer authorized to transact the business of insurance pursuant to this section or liquidate the United States branch if any trustee of a trust account of such United States branch violates or refuses to comply with any provision of this section.

Sec. 19. (NEW) (*Effective from passage*) (a) Not later than March first, annually, for an annual statement, and not later than May fifteenth, August fifteenth and November fifteenth, annually, for a quarterly statement, each United States branch shall file with the commissioner and the National Association of Insurance Commissioners:

(1) Annual and quarterly statements of the insurance business transacted in the United States, the assets held by or for such United States branch in the United States for the protection of policyholders and creditors in the United States and the liabilities in the United States incurred by such United States branch against such assets. The annual statement shall be filed not later than March first. The annual and quarterly statements shall not include any information about the alien insurer's or United States branch's business, assets or liabilities without the United States, and shall be in the same format required of a domestic insurer licensed to write the same kind of insurance;

(2) Annual and quarterly statements, in such form as the commissioner prescribes, of trusteed surplus as of the end of the same period covered by a statement filed pursuant to subdivision (1) of this subsection. In determining the net amount to be reported in the

statement of trusteed surplus of the United States branch's liabilities in the United States, the United States branch shall adjust the total liabilities reported in the corresponding statement filed pursuant to subdivision (1) of this subsection as follows:

(A) Add back the liabilities used to offset admitted assets reported in such corresponding statement; and

(B) Deduct:

(i) Unearned premiums on insurance producers' balances or uncollected premiums not more than ninety days past due, not exceeding unearned premium reserves carried on such uncollected premiums;

(ii) Reinsurance on losses with authorized insurers, less unpaid reinsurance premiums;

(iii) Reinsurance recoverables on paid losses from unauthorized insurers that are included as assets in such corresponding statement, but only to the extent a liability for such unauthorized recoverables is included in the liabilities report in the statement of trusteed surplus;

(iv) Special state deposits held for the exclusive benefit of policyholders, or policyholders and creditors, of such United States branch, in any particular state, not exceeding the net liabilities reported by such United States branch for that state;

(v) Secured accrued retrospective premiums;

(vi) If such United States branch is transacting life insurance, (I) the amount of its policy loans to policyholders in the United States, not exceeding the amount of legal reserve required on each such policy, and (II) the net amount of uncollected and deferred premiums; and

(vii) Any other nontrusteed asset the commissioner determines secures liabilities in a substantially similar manner.

(b) The commissioner may require additional information to be

provided in the annual or quarterly statements filed pursuant to subsection (a) of this section relating to the total business or assets or any portion thereof of the alien insurer.

(c) A manager, attorney-in-fact or a duly empowered assistant manager of the United States branch shall sign and verify the annual statement of insurance business transacted and annual statement of trusteed surplus under subsection (a) of this section. The trustee or trustees of a trust that hold securities and other property shall certify such holdings in the annual statement of trusteed surplus.

(d) Each examination report of a United States branch shall include a statement of trusteed surplus as of the date of examination in addition to the general statement of the financial condition of the United States branch.

Sec. 20. (NEW) (*Effective from passage*) (a) Before issuing or renewing a United States branch's license under section 18 of this act, the commissioner may require satisfactory proof, in the alien insurer's charter or by a duly certified resolution of such insurer's board of directors or as otherwise required by the commissioner, that such insurer and United States branch will not engage in any insurance business (1) in violation of sections 17 to 21, inclusive, of this act, or (2) that is not authorized by such insurer's charter.

(b) The commissioner shall renew a United States branch's license under section 18 of this act if the commissioner is satisfied that neither the alien insurer nor the United States branch is in violation of any provision of sections 17 to 21, inclusive, of this act and that such renewal will not be hazardous or prejudicial to the best interests of the residents of this state.

(c) The commissioner shall not authorize a United States branch to (1) transact in this state any kind of insurance business or any combination of kinds of insurance that are prohibited for domestic insurers, or (2) transact the business of insurance in this state if such United States branch transacts anywhere in the United States any kind

of business other than the business of insurance or business necessarily or properly incidental to the kind of insurance such United States branch seeks to transact in this state.

(d) The commissioner shall not authorize or reauthorize a United States branch to transact the business of insurance in this state if such United States branch fails to (1) substantially comply with any provision of sections 17 to 21, inclusive, of this act that the commissioner deems necessary to protect the interests of the policyholders of such United States branch, or (2) keep complete and accurate records of its insurance transactions. Such records shall be made available at the principal office of such United States branch for inspection by the commissioner.

(e) The commissioner may commence a proceeding pursuant to chapter 704c of the general statutes against a United States branch as an insurer whose condition is such that its further transaction of business will be hazardous to its policyholders, its creditors or the public, in the United States, when it appears to the commissioner from any annual or quarterly statement required under subsection (a) of section 19 of this act or any other report that the funds in the trust account of the United States branch of such insurer has been reduced below the minimum amount required to be maintained under subdivision (2) of subsection (a) of section 18 of this act.

Sec. 21. (NEW) (*Effective from passage*) (a) An alien insurer whose United States branch is licensed under section 18 of this act may, with the prior written approval of the commissioner, domesticate its United States branch in accordance with the provisions of this section.

(b) (1) Such alien insurer shall enter into a domestication agreement in writing with a domestic insurer that provides for the domestic insurer to succeed to all the business and assets and to assume all the liabilities of the United States branch. The agreement shall be effectuated, upon approval by the commissioner, by the filing of an instrument of transfer and assumption as set forth in subdivision (4) of this section.

(2) The alien insurer shall approve any such domestication agreement in accordance with the laws of the country under which the alien insurer is organized. The president or a vice president of the domestic insurer shall execute, the board of directors of the domestic insurer shall approve and the secretary of the domestic insurer shall certify under corporate seal, any such domestication agreement.

(3) The alien insurer and the domestic insurer shall submit to the commissioner for approval their respective copies of the executed domestication agreement and certified copies of their corporate proceedings approving such agreement. The commissioner shall approve such agreement if the commissioner finds that such agreement complies with the provisions of this section and that the interests of the policyholders of the United States branch and the domestic insurer will not be materially adversely affected. The commissioner shall approve or disapprove such agreement not later than sixty days after the later of the two insurers' submissions.

(4) (A) The alien insurer or the domestic insurer shall file with the commissioner a certified copy of the instrument of transfer and assumption pursuant to which the domestic insurer succeeds to all the business and assets and assumes all the liabilities of the United States branch. Such instrument shall be in a form satisfactory to the commissioner and executed by an authorized representative of the alien insurer and the domestic insurer. Upon such filing, the transfer shall be deemed effective and all rights, franchises and interests of the United States branch in and to every species of property and all liabilities of and actions relating to such United States branch shall be transferred to and vested in the domestic insurer.

(B) The commissioner shall, contemporaneously with the effectuation of the domestication agreement, direct the trustee or trustees of the United States branch's trust account to pay or transfer to the domestic insurer all trusteed assets, if any, held by such trust.

(C) For purposes of complying with any laws related to the age of companies, the domestic insurer shall be deemed to be the age of the

older of the two insurers that are party to the domestication agreement.

(5) All deposits of the United States branch held by the commissioner, state officers or state regulatory agencies shall be deemed to be held as security for the satisfaction of liabilities to policyholders in the United States assumed by the domestic insurer from the United States branch. Such deposits shall be deemed assets of the domestic insurer and shall be reported as such in annual financial statements and other reports the domestic insurer is required to file. Upon the ultimate release of any such deposits by the commissioner, state officer or state regulatory agency, the cash or securities or both constituting such released deposit shall be paid or delivered to the domestic insurer as the lawful successor in interest to the United States branch.

Sec. 22. Subsection (c) of section 38a-72 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) No alien property, marine or casualty insurance company shall be licensed to transact business in this state unless it furnishes a certificate showing that it has, for the protection of all policyholders, a cash deposit with the Treasurer of this state, or with the proper officer of some other state, of not less than the minimum capital and surplus requirements for similar foreign insurance companies or seven hundred and fifty thousand dollars, whichever amount is less; nor unless it has a trusteed surplus, as defined in section **[**38a-74**]** 16 of this act, at least as great as the minimum capital and surplus requirements for similar foreign insurance companies.

Sec. 23. Section 38a-317 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

An owner of a mobile home shall be a homeowner for purposes of sections 38a-72, **[**to 38a-75, inclusive**]** as amended by this act, 38a-73, 38a-285, 38a-305 to 38a-318, inclusive, 38a-328, 38a-663 to 38a-696,

inclusive, 38a-827 and 38a-894 to 38a-898, inclusive, and homeowners policies as regulated under said sections shall be offered on the same terms to such an owner as to other homeowners, when such owner of a mobile home owns and occupies a mobile dwelling equipped for year-round living **[**which**]** that is permanently attached to a permanent foundation on property owned or leased by such owner of a mobile home, is connected to utilities, is assessed as real property on the tax list of the town in which it is located and is in conformance with applicable state and local laws and ordinances.

Sec. 24. Section 38a-905 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

For the purposes of sections 38a-903 to 38a-961, inclusive:

(1) "Alien insurer domiciled in this state" means a United States branch.

[(1)**]** (2) "Ancillary state" means any state other than a domiciliary state.

[(2)**]** (3) "Commissioner" means the Insurance Commissioner.

[(3)**]** (4) "Commodity contract" means: (A) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the Commodity Futures Trading Commission under the Commodity Exchange Act (7 USC 1 et seq.) or board of trade outside the United States; (B) an agreement that is subject to regulation under Section 19 of the Commodity Exchange Act (7 USC 1, et seq.) and that is commonly known to the commodities trade as a margin account, margin contract, leverage account or leverage contract; or (C) an agreement or transaction that is subject to regulation under section 4c(b) of the Commodity Exchange Act (7 USC 1 et seq.) and that is commonly known to the commodities trade as a commodity option.

[(4)**]** (5) "Creditor" **[**is**]** means a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or

unsecured, absolute, fixed or contingent.

[(5)**]** (6) "Delinquency proceeding" means any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer, and any summary proceeding under section 38a-912. "Formal delinquency proceeding" means any liquidation or rehabilitation proceeding.

[(6)**]** (7) "Doing business", "doing insurance business" and the "business of insurance", includes any of the following acts, whether effected by mail or otherwise: (A) The issuance or delivery of contracts of insurance, either to persons resident in or covering a risk located in this state; (B) the solicitation of applications for such contracts or other negotiations preliminary to the execution of such contracts; (C) the collection of premiums, membership fees, assessments or other consideration for such contracts; (D) the transaction of matters subsequent to execution of such contracts and arising out of them; or (E) operating under a license or certificate of authority, as an insurer, issued by the Insurance Department.

[(7)**]** (8) "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.

[(8)**]** (9) "Fair consideration" is given for property or obligation: (A) When in exchange for such property or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or services are rendered or an obligation is incurred or an antecedent debt is satisfied; or (B) when such property or obligation is received in good faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained.

[(9)**]** (10) "Foreign country" has the same meaning **[**assigned to it**]** as provided in section 38a-1.

[(10)**]** (11) "Forward contract" means a contract, other than a

commodity contract, for the purchase, sale or transfer of a commodity, as defined in Section 1 of the Commodity Exchange Act (7 USC 1 et seq.), or any similar good, article, service, right or interest that is presently or in the future becomes the subject of dealing in the forward contract trade, or product or by-product thereof, with a maturity date more than two days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, unallocated hedge transaction, deposit, loan, option, allocated transaction or a combination of these or option on any of them.

[(11)**]** (12) "General assets" includes all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, "general assets" includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets.

[(12)**]** (13) "Guaranty association" means the Connecticut Insurance Guaranty Association established pursuant to sections 38a-836 to 38a-853, inclusive, the Connecticut Life and Health Insurance Guaranty Association established pursuant to sections 38a-858 to 38a-875, inclusive, and any other similar entity created by the General Assembly for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities created by the legislature of any other state.

[(13)**]** (14) "Insolvency" and "insolvent" have the **[**meanings assigned to them**]** same meanings as provided in section 38a-1.

[(14)**]** (15) "Insurer" means any person who has done, purports to do, is doing or is licensed to do an insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision or conservation by, any insurance

commissioner. For purposes of sections 38a-903 to 38a-961, inclusive, any other persons included under section 38a-904 shall be deemed to be insurers.

[(15)**]** (16) "Netting agreement" means a contract or agreement, including terms and conditions incorporated by reference therein, including a master agreement, which master agreement, together with all schedules, confirmations, definitions and addenda thereto and transactions under any thereof, shall be treated as one netting agreement, that (A) documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and (B) provides for the netting or liquidation of qualified financial contracts or present or future payment obligations or payment entitlements thereunder, including liquidation or closeout values relating to such obligations or entitlements, among the parties to the netting agreement.

[(16)**]** (17) "Preferred claim" means any claim with respect to which the terms of sections 38a-903 to 38a-961, inclusive, accord priority of payment from the general assets of the insurer.

[(17)**]** (18) "Qualified financial contract" means a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement and any similar agreement that the commissioner determines to be a qualified financial contract for the purposes of this chapter.

[(18)**]** (19) "Receiver" means receiver, liquidator, rehabilitator or conservator, as the context requires.

[(19)**]** (20) "Reciprocal state" means any state other than this state in which in substance and effect sections 38a-920, 38a-954, 38a-955 and 38a-957 to 38a-959, inclusive, are in force and in which provisions are in force, requiring that the commissioner or equivalent official be the receiver of a delinquent insurer and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

[(20)**]** (21) "Repurchase agreement" and "reverse repurchase agreement" mean an agreement, including related terms, that provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or an agency of the United States against the transfer of funds by the transferee of the certificates of deposit, eligible bankers' acceptances or securities with a simultaneous agreement by the transferee to transfer to the transferor certificates of deposit, eligible bankers' acceptances or securities as described in this subdivision, at a date certain not later than one year after the transfers or on demand, against the transfer of funds. For the purposes of this subdivision, the items that may be subject to an agreement include mortgage-related securities, a mortgage loan, and an interest in a mortgage loan, and shall not include any participation in a commercial mortgage loan, unless the commissioner determines to include the participation within the meaning of the term.

[(21)**]** (22) "Secured claim" means any claim secured by an asset that is not a general asset. "Secured claim" also includes claims which have become liens upon specific assets by reason of judicial process prior to four months before the commencement of delinquency proceedings. "Secured claim" does not include a special deposit claim or a claim arising from a constructive or resulting trust.

[(22)**]** (23) "Securities contract" means a contract for the purchase, sale or loan of a security, including an option for the repurchase or sale of a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof, or an option entered into on a national securities exchange relating to foreign currencies, or the guarantee of a settlement of cash or securities by or to a securities clearing agency. For the purposes of this subdivision, "security" includes a mortgage loan, mortgage-related securities, and an interest in any mortgage loan or mortgage-related security.

[(23)**]** (24) "Special deposit claim" means any claim secured by a

deposit made pursuant to a state statute for the security or benefit of a limited class or classes of persons, but does not include any claim secured by general assets.

[(24) "State" means any state, district or territory of the United States.**]**

(25) "State" has the same meaning as provided in section 38a-1.

[(25)**]** (26) "Swap agreement" means an agreement, including the terms and conditions incorporated by reference in an agreement, that is a rate swap agreement, basis swap, commodity swap, forward rate agreement, interest rate future, interest rate option, forward foreign exchange agreement, spot foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, or currency option or any other similar agreement, and includes any combination of agreements and an option to enter into an agreement.

[(26)**]** (27) "Transfer" includes the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest therein, or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

(28) "United States branch" has the same meaning as provided in section 16 of this act.

Sec. 25. Section 38a-914 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The commissioner may apply by petition to the Superior Court for an order authorizing **[**him**]** the commissioner to rehabilitate a domestic insurer or an alien insurer domiciled in this state on any one or more of the following grounds:

[(a)**]** (1) The insurer is in such condition that the further transaction of business would be hazardous, financially, to its policyholders, creditors or the public.

[(b)**]** (2) There is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that if established would endanger assets in an amount threatening the solvency of the insurer.

[(c)**]** (3) The insurer has failed to remove any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee, or other person, if the person has been found after notice and hearing by the commissioner to be dishonest or untrustworthy in a way affecting the insurer's business.

[(d)**]** (4) Control of the insurer, whether by stock ownership or otherwise, and whether direct or indirect, is in a person or persons found after notice and hearing to be dishonest or untrustworthy.

[(e)**]** (5) Any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director or trustee, employee or other person has refused to be examined under oath by the commissioner concerning its affairs, whether in this state or elsewhere, and after reasonable notice of the fact the insurer has failed promptly and effectively to terminate the employment and status of the person and all **[**his**]** such person's influence on management.

[(f)**]** (6) After demand by the commissioner pursuant to section 38a-14 or **[**pursuant to**]** sections 38a-903 to 38a-961, inclusive, the insurer has failed to promptly make available for examination any of its own property, books, accounts, documents or other records, or those of any subsidiary or related company within the control of the insurer, or those of any person having executive authority in the insurer so far as they pertain to the insurer.

[(g)**]** (7) Without first obtaining the written consent of the commissioner, (A) the insurer has transferred or attempted to transfer, in a manner contrary to section 38a-136, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate or reinsure substantially its entire property or business in or with the property or business of any other person, or (B) the United States branch has transferred or attempted to transfer, in a manner contrary to section 18 of this act, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate or reinsure substantially its entire property or business in or with the property or business of any other person.

[(h)**]** (8) The insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator or sequestrator or similar fiduciary of the insurer or its property **[**otherwise**]** other than as authorized under the insurance laws of this state, and such appointment has been made or is imminent, and such appointment might oust the courts of this state of jurisdiction or might prejudice orderly delinquency proceedings under sections 38a-903 to 38a-961, inclusive.

[(i)**]** (9) Within the previous four years the insurer has wilfully violated its charter or articles of incorporation, its bylaws, any insurance laws of this state or any valid order of the commissioner.

[(j)**]** (10) The insurer has failed to pay within sixty days after due date any obligation to any state or any subdivision thereof or any judgment entered in any state, if the court in which such judgment was entered had jurisdiction over such subject matter, except that such nonpayment shall not be a ground until sixty days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts, or the insurer has systematically attempted to compromise or renegotiate previously agreed settlements with its creditors on the ground that it is financially unable to pay its obligations in full.

[(k)**]** (11) The insurer has failed to file its annual report or other financial report required by statute within the time allowed by law and, after written demand by the commissioner, has failed to give an adequate explanation immediately.

[(l)**]** (12) The board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities specified in section 38a-904, request or consent to rehabilitation under sections 38a-903 to 38a-961, inclusive.

Sec. 26. Sections 38a-74 and 38a-75 of the general statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	New section
Sec. 4	*from passage*	New section
Sec. 5	*from passage*	New section
Sec. 6	*from passage*	New section
Sec. 7	*from passage*	New section
Sec. 8	*from passage*	New section
Sec. 9	*from passage*	New section
Sec. 10	*from passage*	New section
Sec. 11	*from passage*	New section
Sec. 12	*from passage*	New section
Sec. 13	*from passage*	New section
Sec. 14	*from passage*	New section
Sec. 15	*from passage*	38a-153
Sec. 16	*from passage*	New section
Sec. 17	*from passage*	New section
Sec. 18	*from passage*	New section
Sec. 19	*from passage*	New section
Sec. 20	*from passage*	New section
Sec. 21	*from passage*	New section
Sec. 22	*from passage*	38a-72(c)
Sec. 23	*from passage*	38a-317
Sec. 24	*from passage*	38a-905

Sec. 25	*from passage*	38a-914
Sec. 26	*from passage*	Repealer section

INS *Joint Favorable Subst.*

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes a variety of changes concerning insurance mutual holding companies and alien insurers. As these concern private insurance organizations, there is no direct state or municipal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5053

AN ACT STRENGTHENING CONNECTICUT'S INSURANCE INDUSTRY COMPETITIVENESS.

SUMMARY:

This bill establishes a process by which a Connecticut mutual insurer can reorganize itself as a stock insurer owned, directly or indirectly, by a mutual holding company. It requires the insurer to develop a plan, which is subject to approval by its board of directors, the insurance commissioner, and the insurer's members. It prescribes the powers and duties of the mutual holding company and prohibits it from engaging in the insurance business.

The bill regulates how an insurer or intermediate holding company can offer voting stock, once the reorganization goes into effect, to a person other than the mutual holding company or a subsidiary it wholly owns.

The bill prescribes how (1) holding companies can merge, (2) a mutual insurance company can reorganize with an existing Connecticut or out-of-state holding company, and (3) a holding company can convert into a stock corporation. It establishes limits on when certain actions can be brought against the affected companies. The bill generally makes information, documents, and copies connected with these provisions confidential and exempt from the Freedom of Information Act. The bill allows the commissioner to adopt implementing regulations.

Under current law, an alien (non-U.S.) insurer can enter the United States through another state and establish its U.S. branch there. The bill establishes a process by which alien insurers can use Connecticut as their "state of entry" to transact insurance business through a U.S.

branch. To do this, the alien insurer must obtain a Connecticut insurance license and establish a trust account funded at or above the level required for a Connecticut insurer. The resulting branch is subject to all state insurance laws that apply to an insurer domiciled in this state, unless otherwise provided.

The bill specifies application and licensing requirements for the alien insurer. The insurer must create a deed of trust in connection with the trust account. The deed is subject to the insurance commissioner's approval. The bill restricts the types of business the branch can engage in. It allows the commissioner to liquidate the branch or revoke the alien insurer's license if any trustee violates or refuses to comply with the bill's requirements and grants him other powers.

The branch must submit annual and quarterly reports to the Insurance Department and the National Association of Insurance Commissioners (NAIC).

The bill establishes a procedure under which the alien insurer can domesticate its U.S. branch. Domestication is a reorganization of the branch in which a Connecticut insurer succeeds to all of the branch's business and assets and assumes all of its liabilities.

The bill allows the commissioner to apply to the courts to rehabilitate a U.S. branch that, without his approval, (1) transfers or attempts to transfer its entire property or business in violation of the bill or (2) enters into any transaction that effectively merges, consolidates, or reinsures substantially all of its property or business in or with another person .

The bill modifies the surplus that an alien insurer operating under existing law must have in its trust account.

It also makes minor, conforming, and technical changes.

EFFECTIVE DATE: Upon passage

REORGANIZATION OF MUTUAL INSURER

§ 2(b)(1-3) — Reorganization Plan and Approval by the Board

To take advantage of the bill, a Connecticut mutual insurer must develop a plan that describes why it is reorganizing. The plan must provide for:

1. amending the insurer's articles of incorporation to reorganize it into a Connecticut stock corporation, including any provisions governing an initial voting stock offer;

2. forming a mutual holding company that will acquire, directly or through intermediate stock holding companies, at least 51% of the voting stock of the reorganized insurer;

3. the succession of the insurer's rights, properties, debts obligations, and liabilities; and

4. any proposed fees, commissions, or other consideration for people aiding, promoting, or assisting the reorganization.

A mutual holding company must be organized using the process established by the bill. An intermediate stock holding company is an institution that (1) is at least 51% owned, directly or through another intermediate stock holding company, by a mutual holding company and (2) owns, directly or indirectly, at least 51% of the voting stock of at least one reorganized insurer.

The plan must provide that:

1. the insurer's members become members of the holding company and

2. members with policies issued by the insurer in force on the reorganization's effective date have equity rights (rights to own stock) and membership interests in the holding company.

Under the bill, membership interests are rights other than equity rights or those expressly and solely conferred under a policy. The plan

may include provisions limiting any person from directly or indirectly acquiring or offering to acquire 10% or more of any class of voting stock of the reorganized insurer or any entity that controls it.

The reorganization plan must be approved by vote of three-fourths of the board of directors.

§ 2(b)(4), 3(c) — Submission to the Commissioner

Accompanying Documents. Once the board approves the plan, the insurer must submit an application to the commissioner that is executed by an authorized officer of the insurer. The application must be accompanied by original or true and correct copies of the following documents:

1. the reorganization plan;

2. the proposed articles of incorporation and by-laws of each corporation that will be a constituent corporation of the reorganization;

3. the names and biographies of the officers and directors of each of these corporations;

4. the resolution of the insurer's board of directors, certified by its secretary, authorizing the reorganization;

5. financial statements, in a form acceptable to the commissioner, implementing the reorganization for the holding company and any corporations that will be part of the reorganization and that will experience a change in capitalization due to the reorganization;

6. a draft of materials to be mailed to members seeking their approval of the plan, including a summary of the reorganization plan; and

7. other relevant information that the commissioner requires.

Articles of Incorporation. The mutual holding company's articles of incorporation must include provisions that:

1. state it is organized under the bill;

2. one of its purposes is to own, directly or through one or more intermediate holding companies, at least 51% of the voting stock of one or more reorganized insurers;

3. the mutual holding company itself is not authorized to issue stock;

4. its members have the rights specified in the bill and the holding company's articles of incorporation and by-laws; and

5. in any liquidation or rehabilitation proceeding brought against the reorganized insurer, the assets and liabilities of the mutual holding company that holds the insurer can be included in the estate of a reorganized insurer.

§ 2(c), (d), (e)(h) — Plan Approval

Public Hearing. The commissioner must hold a hearing on (1) the reasons for and purposes of the mutual insurer's reorganization, (2) the fairness of the plan's terms and conditions, and (3) whether the reorganization is in the mutual insurer's best interest, fair and equitable to its policyholders, and not detrimental to the insuring public. The directors, officers, employees, and policyholders of the reorganizing insurer can appear and speak at the hearing.

The reorganizing insurer must mail a notice of the time, place, and purpose of the hearing to each eligible policyholder. The notice must go to the policy holder's last-known address as shown on the reorganizing insurer's records. The notice must be mailed at least 60 days before the hearing and be preceded or accompanied by (1) a true and complete copy of the plan or a summary of it approved by the commissioner and (2) other explanatory information as the commissioner requires.

In addition, the reorganizing insurer must publish a notice of the time, place, and purpose of the hearing in three newspapers, one in the county where it has its principal office and two in other cities in or outside the state approved by the commissioner. The newspaper publications must be made between 15 and 60 days before the hearing and be in a form approved by the commissioner.

Commissioner's Approval of the Plan. The commissioner must approve or disapprove the plan within 60 days after the public hearing. He must approve the plan in writing if he finds that it:

1. is in the best interests of the reorganizing insurer;

2. is fair and equitable to the insurer's members;

3. enhances the reorganizing insurer's operations;

4. will not substantially lessen competition in any line of insurance business;

5. when completed, will provide for the reorganized insurer's paid-in capital stock to at least equal to the minimum paid-in capital stock and net surplus required of a new Connecticut stock insurer upon its initial authorization to transact similar types of insurance; and

6. complies with the bill's requirements.

If the commissioner determines the plan does not meet these conditions, he may ask the reorganizing insurer to modify it. This does not prevent the reorganizing insurer from withdrawing the plan as provided by the bill.

A disapproval of the plan must be in writing and describe the reasons for denial. The reorganizing insurer has 15 days to request a hearing before the commissioner, which must be held within 15 days after the request.

The commissioner may use department personnel or private

consultants to help review the plan. The mutual insurer must pay all costs of the determination, including the cost of department staff.

No one may receive any fee, commission, or other consideration, other than his or her usual salary and compensation, to aid, promote, or assist in the reorganization, except as described in the approved plan. This does not prohibit paying reasonable fees and compensation to directors and officers who act as attorneys, accountants, or actuaries or provide other services in the independent practice of their professions.

Approval by Members. After the commissioner approves the plan, the reorganizing insurer must file it with the commissioner. It must then be approved by a vote of at least two-thirds of the members of the reorganized insurer voting at a meeting called for that purpose. The board of directors, its chairperson, or the president of the reorganizing insurer must call the meeting, which can be held no earlier than 30 days after the public hearing.

The reorganizing insurer must mail a notice of the date, time, place, and purpose of the meeting to policyholders at their last-known addresses, as shown on its records. The notice must be mailed at least 60 days before the meeting date and may be combined with the public hearing notice. It must be preceded or accompanied by (1) a true and complete copy of the plan or by a summary of it approved by the commissioner, (2) the financial statements described below, (3) a description of material risks and benefits to policyholders' interests, (4) any information about an initial stock offering included in the plan of reorganization, and (5) other explanatory information as the commissioner requires.

Each member entitled to vote on the plan of reorganization can vote by written ballot, in person, by mail, or by a proxy he or she appoints. The people entitled to vote are those whose names appear on the reorganizing insurer's records as policyholders on the date the board of directors approved the plan.

The commissioner can, among other things, supervise and prescribe the voting procedures to the extent, consistent with the bill's provisions, he deems this necessary to insure a fair and accurate vote. He can supervise and regulate:

1. the determination of the policyholders entitled to notice of and to vote on the proposal;

2. how notice of the proposal is given;

3. the receipt, custody, safeguarding, verification, and tabulation of proxy forms and ballots; and

4. the resolution of disputes.

Withdrawal or Amendment of the Plan. The mutual insurer may withdraw or amend the plan any time before the reorganization goes into effect. Doing so requires a vote 3/4ths of the board of directors and, for amendments, the commissioner's approval.

Under the bill, a "plan" includes any amended plan. No amendment may change the (1) adoption date of the plan of reorganization or (2) plan in a way that the commissioner determines harms the reorganizing insurer's policyholders.

If the amendment is submitted after the hearing on the original plan, the commissioner must hold another hearing on the amended plan, subject to the notice requirements described above. If the plan is amended after it has been approved by the members, the members have to ratify the amended plan using the same process as for the original plan.

The insurer must submit the amended amendment to the commissioner for approval. After he approves it, the insurer must file the approved amended plan with the commissioner.

§ 2(f)(g), 3(b)(g) — Effects of Reorganization

Once the members approve the reorganization, the commissioner

must issue a new certificate of authority to the reorganized insurer and approve the articles of incorporation of the mutual holding company and the reorganized insurer. He must also provide certificates of approval for the articles of incorporation to the insurer and the holding company. The reorganized insurer can continue to use "mutual" as part of its name unless the commissioner determines it would mislead or deceive the public.

The plan goes into effect (1) once the articles of incorporation of the mutual holding company and amended articles of incorporation of the reorganized insurer are filed with the secretary of the state or (2) on a later date as specified in the plan and the amended articles of incorporation of the reorganized insurer. The later date may not be more than 30 days after the mutual holding company files its articles of incorporation.

Once the plan of reorganization goes into effect:

1. the reorganizing insurer immediately becomes a Connecticut stock insurer and continues the corporate existence of the reorganizing insurer;

2. any person's right to (a) vote on any matter concerning the reorganized insurer or (b) share in a distribution or receive payment based on a surplus in a conservation, liquidation, or dissolution proceeding under the articles of incorporation or by law, is extinguished, but rights expressly conferred solely by the terms of a policy are not extinguished;

3. the members of the reorganizing insurer immediately become members of the holding company, but (a) the rights of a person as a member continue only so long as the related policy remains in force and (b) for group annuity contracts issued by a mutual life insurer, only the group policyholder becomes a member of the holding company;

4. members who have voting rights under policies issued by the

reorganizing insurer as of the reorganization's effective date have equity rights in the holding company so long as the related policy remains in force;

5. the holding company must hold all of the voting stock initially issued by the reorganized insurer, directly or through one or more intermediate stock holding companies; and

6. holders of policies with voting rights issued by the reorganized insurer after the effective date are members and have equity rights in the holding company.

Mutual holding companies must comply with applicable provisions of corporation law. Membership interests in the holding company do not count as securities for purposes of securities law. A description of these interests and related factual disclosures do not violate the law against offering inducements to buy insurance and their receipt does not violate the law that prohibits receiving such inducements.

§ 2(g)(3) —Ownership of Reorganized Insurer

Once the reorganization goes into effect, (1) the holding company or an intermediate stock holding company must own at least 51% of the issued and outstanding voting stock of the reorganized insurer and (2) the holding company or another intermediate stock holding company must own at least 51% of the issued and outstanding voting stock of any intermediate stock holding company. For these calculations, any issued and outstanding securities of the reorganized insurer or any intermediate stock holding company that are convertible into voting stock are considered issued and outstanding voting stock.

§ 3(d), (e), (h), (j)(5) — Powers and Duties of Mutual Holding Companies

Structure. A holding company may control, directly or indirectly, multiple subsidiaries, including multiple intermediate stock holding companies. An intermediate stock holding company may control, directly or indirectly, multiple subsidiaries, including multiple reorganized insurers. A holding company and its subsidiaries and

affiliates are considered members of an insurance holding company system, subject to existing law governing these systems, unless they conflict with the bill's provisions.

Directors. The holding company's articles of incorporation or bylaws may divide its directors into two or more classes whose terms of office expire at different times. No term may run more than six years. The term of office is one year unless otherwise specified in the articles or bylaws.

When a director's term ends, he or she continues to serve until a successor is elected and qualified. If a vacancy occurs before a director's term ends, the other directors must fill the vacancy by a majority vote, regardless of any quorum requirements. The new director serves until the next annual meeting.

Annual Meetings. A holding company must hold an annual meeting. It must notify each member of the meeting at his or her last-known mailing address at least 60 days before the meeting.

Unless the articles of reorganization or the insurer's bylaws provide otherwise, each member of the holding company is entitled to one vote. Members may vote by proxy dated and executed within 90 days before the meeting where they will be used. The proxies must be returned to the company and recorded on its books no later than seven days before the meeting.

A majority vote of the members is sufficient to approve an item unless the law or the holding company's articles of incorporation require a greater percentage.

Bylaw Amendments. Within 30 days after amending its bylaws, the holding company must file a copy certified by its secretary under the corporate seal with the commissioner.

Transfers of Assets. Once the reorganization goes into effect, a reorganized insurer may, pursuant to the reorganization plan or with the commissioner's prior approval, transfer assets or liabilities to the

holding company or an entity the holding company owns or controls. The assets and liabilities can include one or more of the insurer's subsidiaries. But in any transfer, in a single instance or in the aggregate, the liabilities transferred may not be greater than the assets transferred. The commissioner must approve the proposed transfer unless he finds it would materially harm the insurer's ability to meet its obligations under its policies. Under the bill, the rules governing transactions with an insurance company holding system do not apply to these transfers.

The insurer cannot acquire subsidiaries without notice to and review by the commissioner if its total adjusted capital is less than three times its authorized minimum capital, adjusted for risk, at the end of any calendar year after the reorganization goes into effect. The prohibition runs as long as the company does not have the required level of capital.

§ 3(a), (f), (i) — Prohibitions on Mutual Holding Companies

The holding company may not:

1. engage in the insurance business;

2. pay income, dividends contingent on an apportionment of profits, or any other distribution of profits, except to extent provided in its articles of incorporation or as otherwise directed or approved by the commissioner; or

3. transfer its domicile to another state, without the commissioner's approval, for five years after the reorganization goes into effect

§ 12 — Actions Involving the Reorganized Insurer

For 10 years from the effective date of a reorganization plan, if any proceedings are brought naming a Connecticut stock insurer that is a party under (1) the plan or (2) the existing law governing the liquidation and rehabilitation of insurers, the mutual holding company formed under the reorganization must become a party to the proceedings.

The assets of the mutual holding company, including its interest in an intermediate holding company, are considered assets of the estate of the reorganized insurer to the extent necessary to satisfy claims against the reorganized insurer by specified persons whose claim priorities are covered by the existing law. But, a mutual holding company's contribution to the estate of a reorganized insurer may not exceed the value of assets, net of liabilities, that the reorganized insurer transferred to it or to one or more persons owned or controlled by the mutual holding company. Claims of persons who are members of the mutual holding company have the same priority as members of a mutual insurer authorized to do the same kinds of business as the reorganized insurer would have upon its liquidation under existing law.

A mutual holding company may not dissolve, liquidate, or wind up and dissolve without the prior written approval of the commissioner or the court pursuant to proceedings brought under the existing law.

§§ 4(b), 6 — Reorganized Insurers

Amendments. A reorganized insurer may amend its articles of incorporation in the same way as other stock corporations can after the reorganization goes into effect.

An insurer whose reorganization has gone into effect can amend its reorganization plan, subject to the same limitations as amendments to the original plan. An amendment requires:

1. the approval by a majority of the reorganized insurer's board of directors and

2. submission of the proposed amendment to the commissioner in the same way the original plan was submitted.

In addition, the amendment must be approved by a majority of holding company members who were eligible to vote on the original plan as members of the former insurer. If the amendment would harm the rights of some but not all classes of members, only members in a

potentially harmed class can vote. Otherwise the ratification procedure is similar to that for the original plan, although there are no specific notice requirements.

As was the case for the original plan, the board of directors can, by majority vote, amend or withdraw the plan amendment. The insurer must submit the amendments to the commissioner for approval.

An amendment that complies with the above requirements goes into effect when filed with the commissioner.

Provisions for Mutual Life Insurers. If the insurer is a mutual life insurer, the equity interest of the policyholders of the reorganized insurer must equal, in aggregate, the entire capital and surplus of the mutual holding company, less any funds federal law requires it to hold in segregated accounts. This equity interest is used to determine the amount of consideration paid to policyholders if the holding company converts to a stock company, as described below.

Once the reorganization goes into effect, the insurer generally must establish a separate account ("closed block") for policyholder dividend purposes. The closed block must consist of all the insurers' participating individual policies (1) in force on the reorganization's effective date and (2) for which the insurer had an experience-based dividend scale payable in the year the plan of reorganization was adopted by the insurer's board of directors. The insurer must allocate its assets to these policies in an amount that produces cash flows, together with anticipated revenues from the closed-block business, the insurer expects to be sufficient to support the closed-block business. This amount must provide for (1) paying claims, expenses, and taxes specified in the reorganization plan and (2) continuing dividend scales in effect on the date the insurer's board adopted the plan, if the experience underlying such scales continues. No policies entering into force after the effective date can be included in the closed block.

The insurer may, with the commissioner's approval, establish conditions under which it may cease to maintain the closed block and

allocation of assets to it. But the policies constituting the closed block business remain obligations of the insurer and the board of directors must apportion the dividends on the policies in accordance with the terms of the policies and applicable provisions of any law.

Alternatively, the insurer can provide another practice that protects the contractual rights of individuals who had policies in force when the reorganization went into effect, if the commissioner determines this is substantially as protective for the policyholders.

Periodically, an independent accounting or actuarial firm must report to the commissioner and the boards of directors of the holding company and the insurer on whether or not the closed block and related assets or alternative practice has been administered according to the reorganization plan. This report must be made three years after the year the reorganization goes into effect and every three years thereafter, or more frequently as determined by the commissioner. The firm must consider the dividend payments to policyholders resulting from the closed block and other relevant factors. The insurer must pay the expenses incurred in retaining the firm. The report must be completed and delivered to the commissioner and the boards by the close of business on April 1 following the end of the period for which a report is being provided.

§ 7, 8(b)(c) — Stock Offerings

The bill regulates how a reorganized insurer or intermediate holding company can offer voting stock, for the first time after the reorganization goes into effect, to a person other than the mutual holding company or a subsidiary it wholly owns. Voting stock includes any securities of the insurer or any intermediate holding company that are convertible into voting stock.

Stock purchase rights must have a 50-share minimum purchase limit. Under the bill, this is a nontransferable right granted to each policyholder of the reorganized insurer who has been a policyholder for at least one year prior to the reorganization's effective date, to

acquire stock in the reorganized insurer if it conducts an initial public offering of voting stock or in any intermediate stock holding company that conducts an initial public offering of voting stock.

The price per share must equal the public offering price. If the exercise of a stock purchase right results in one person owning more than 50% of the shares being offered to the public (or a smaller percentage approved by the commissioner) exercising this right is subject to proration, but not below the 50-share minimum. A stock purchase right is but not below any exclusion or limit authorized by law that apply to particular classes of policyholders.

The commissioner must approve the application unless he finds that (1) a public offering would not be conducted in a way generally consistent with customary practices for initial public offerings to the extent they are reasonably comparable or (2) any other offering would harm the members of the mutual holding company. These provisions do not prohibit the reorganized insurer or intermediate holding company filing a registration statement with the Securities and Exchange Commission and the secretary of the state before the commissioner's approval.

The commissioner may use department personnel or consultants to help review the offering to determine whether it meets these requirements. The issuer must pay all costs determination, including the cost of department staff.

If a mutual holding company causes an intermediate holding company or insurer to conduct an initial public offering, private equity placement, or issuance of voting stock or securities convertible into voting stock, the mutual holding company must cause each eligible person to receive stock purchase rights in connection with the initial offering or issuance. This requirement is subject to any limitations under law applicable to particular classes of policyholders. The requirement does not apply if a committee of the mutual holding company's outside directors determines, by vote of at least two-thirds of its members, that a stock purchase rights offering would not be in

the members' best interests. This determination is subject to the commissioner's approval.

The mutual holding company, the intermediate holding company, or insurer may issue stock of the intermediate holding company or the insurer to a qualified trust established in connection with an employee stock ownership plan or other employee benefit plan established for the benefit of company's or insurer's employees. No individual may receive more than 12.5% of the stock. Directors who are not employees may not receive more than 2.5% of the stock individually or 15% in the aggregate. No individual can own more than 18% of the stock unless the commissioner raises this limit.

The voting shares initially issued to employee stock ownership plans or other employee benefit plans cannot, in the aggregate, exceed 5% of the voting shares initially issued.

An officer or director of a mutual holding company, intermediate holding company, or insurer may not sell any voting stock or securities convertible into voting stock he or she holds for at least one year following the date of the initial offering or issuance of the securities. This prohibition does not apply if the officer or director dies or becomes disabled.

§ 8(a)(d) — Stock Options and Ownership Limits

The bill limits when an intermediate holding company or the insurer may award stock options or stock grants to officers or directors of the mutual holding company, an intermediate holding company, or the reorganized insurer. The award cannot be made until six months after the completion of an initial public offering, private equity placement, or the first issuance of public or private stock or securities convertible into voting stock of the insurer or intermediate company to any person other than the mutual holding company or an intermediate holding company. But, if an insurer or its intermediate holding company distributes stock purchase rights to the policyholders of an insurer in connection with a public offering of stock, their directors

and officers who are policyholders of the reorganized insurer must receive and may exercise stock purchase rights on the same basis as all other policyholders.

Until two years after this six-month period, the officers, directors, and outside directors of (1) the mutual holding company, (2) an intermediate holding company, and (3) the insurer may not own, in the aggregate, more than 5% of the voting stock of the intermediate holding company or the reorganized insurer. Thereafter, they may own no more than 18% of that voting stock. The commissioner may, in the event of a distress situation, find that their aggregate ownership of more than 18% is necessary and appropriate.

No person may directly or indirectly acquire or offer to acquire ownership of more than 10% of any class of the voting stock of the insurer, any intermediate holding company, or any other institution that directly or indirectly owns a majority of the voting securities of the insurer without the commissioner's prior approval.

The above provisions do not prohibit officers, directors, employees, employee stock ownership plans, or other employee benefit plans from buying, with cash, voting stock issued by an intermediate holding company or insurer. These purchases must be (1) made in accordance with reasonable classifications of these individuals and plans and (2) at the same price offered to the public in any public offering. The above provisions also do not prohibit a mutual holding company, intermediate holding company, or insurer from establishing a stock option, incentive, or share ownership plan customary for publicly traded companies, subject to the bill's limitations.

§§ 9, 15 — Merger or Consolidation of Holding Companies and Their Subsidiaries

The bill prescribes how two or more mutual holding companies can merge or consolidate. These provisions do not authorize the merger or consolidation of stock companies with mutual holding companies.

The bill allows two or more mutual holding companies to merge or

consolidate under the laws of any U.S. state into a mutual holding company incorporated under the laws of that state. At least one of the merging companies must be a Connecticut company. The resulting company may be a continuing corporation under the name of one or more of the merged or consolidated companies or a new company.

If the continuing or new company will be a Connecticut company, (1) it is subject to the bill's provisions, (2) its name is subject to the commissioner's approval, (3) the members of any mutual holding company whose existence will cease once the merger or consolidation goes into effect become members of the continuing mutual holding company, and (4) all persons with equity rights in any mutual holding company whose existence ceases when the merger or consolidation goes into effect must have equity rights in the continuing mutual holding company.

The merging or consolidating companies must enter into a written agreement prescribing the action's terms and conditions. A majority of the board of each participating Connecticut company must approve the action. The agreement is subject to the commissioner's written approval. He must consider the fairness of the agreement's terms and conditions, whether the interests of the members of each Connecticut mutual holding company that is a party to the agreement are protected, and whether the proposed merger or consolidation is in the public interest.

Each of the merging or consolidating companies must call a special members' meeting to present and hold a vote on the agreement. They must provide notice of the meeting in a way the commissioner prescribes. The agreement must be approved by a vote of two-thirds of the members of each company who are present and voting at the meeting.

If the continuing or new mutual holding company will be a Connecticut company, the agreement must be (1) executed in duplicate by each company's president and secretary under its corporate seal, (2) accompanied by copies of each company's resolutions authorizing the

merger or consolidation and the execution of the agreement attested by each company's recording officer, and (3) submitted to the commissioner with the required records.

If it appears to the commissioner that each company has complied with these requirements, he may certify and approve the agreement. He must file one of the duplicates with the secretary of the state. She must record the agreement and issue a certificate of reincorporation to the continuing or new company with the powers retained and specified in the agreement. The commissioner must keep the other duplicate. An agreement does not take effect until it has been filed with the secretary of the state.

If the new or continuing company is a Connecticut company, after the merger or consolidation all rights and properties of the several companies accrue to and become the rights and property of the continuing or new company, which succeeds to all the obligations and liabilities of the merged or consolidated companies as if they had been incurred or contracted by it.

If the continuing or new company will be an out-of-state company, the agreement and other information the commissioner requires must be filed with him and may not be executed until he approves them. Upon the commissioner's approval, the new or continuing company must file documentary evidence with the commissioner showing the date when the merger or the consolidation will become effective. If the commissioner finds the agreement has been filed in accordance with these provisions, he must file a certificate with the secretary noting the merger or consolidation and its effective date. The corporate existence of the Connecticut mutual holding company ceases on the effective date.

No action or proceeding pending in any Connecticut court at the time of the merger or consolidation in which a Connecticut company is or may be a party can be abated or discontinued because of the merger or the consolidation. It may be prosecuted to final judgment in the same manner as if the merger or the consolidation had not taken place.

Alternatively, the court where the action or proceeding is pending may substitute the continuing or new company in place of the Connecticut company.

In addition, a Connecticut or out-of-state subsidiary of an existing Connecticut mutual holding company may, with the commissioner's prior approval, merge with an out-of-state mutual insurer. It must do so using the existing law's procedures for mergers between Connecticut insurers and out-of-state or alien insurers.

§ 10 — Reorganizations into Existing Holding Companies

The bill allows a Connecticut mutual insurance company to reorganize with an existing Connecticut or out-of-state mutual holding company. To do this, the reorganization plan of the Connecticut mutual insurer must provide that (1) it will become a Connecticut stock insurer, (2) its members will become members of the mutual holding company, (3) owners of policies in force on the date the reorganization goes into effect have equity rights in the mutual holding company, and (4) the mutual holding company will acquire, directly or through one or more intermediate stock holding companies, at least 51% of the reorganized insurer's voting stock.

With the commissioner's approval, an existing Connecticut mutual holding company may:

1. acquire direct or indirect ownership of a converting out-of-state mutual insurer that becomes a stock insurer in compliance with the law of its state of domicile or

2. grant membership interests and equity rights to the members or policyholders of an out-of-state mutual insurer that merges with a direct or indirect Connecticut or out-of-state subsidiary of the Connecticut mutual holding company and the subsidiary may, in turn, merge with the out-of-state mutual insurer pursuant to existing law.

In determining whether to approve these steps, the commissioner

may consider (1) the fairness of the transaction's terms and conditions, (2) whether the interests of the members of the Connecticut holding company are protected, and (3) whether the transaction is in the public interest.

§ 11 — Conversion of Holding Company into a Stock Company

Conversion Plan. The bill allows a Connecticut mutual holding company to become a Connecticut stock corporation under a plan of conversion. The plan must include the reasons for the proposed conversion and provide for amending the holding company's articles of incorporation to effect it.

The plan must give each person holding equity rights in the company appropriate consideration in exchange for these rights. The total consideration must equal the company's capital and surplus, less any money federal law requires to be held in segregated accounts. The amount of the consideration must be determined under a fair and reasonable formula approved by the commissioner.

If the conversion plan calls for the mutual holding company to be a surviving corporation, the consideration to eligible policyholders must be stock, cash, or other consideration approved by the commissioner. Distributing (1) all of the company's stock to eligible policyholders or (2) other consideration of equivalent value to certain eligible policyholders meets this requirement. If the mutual holding company will not be a surviving corporation, payment in permitted forms must be distributed to the eligible policyholders.

The conversion plan also must give each person holding equity rights a preemptive right to acquire his or her share of the proposed capital stock of the converted company. These person can use their consideration to purchase the stock. But, the plan can provide that (1) the person cannot buy or receive stock if the stock has an aggregate subscription price of $2,000 or less and (2) the preemptive right does not apply in jurisdictions where issuing stock (a) is impossible, (b) would involve unreasonable delay, or (c) would require the converting

company to incur unreasonable costs. In such cases, the person must be paid in cash.

If the equity holders are granted stock, or other consideration the commissioner approves, the plan must provide that (1) no member or holders of equity in the converting company have preemptive rights to acquire any of the proposed stock of the converted company, proposed parent, or other corporation or (2) the preemptive rights are on other terms approved by the commissioner.

Anyone may participate in the distribution of consideration and buy the stock if his or her name appeared on the converting company's records as holding equity rights on (1) the December 31 before the conversion and (2) the date the company's board of directors first voted to convert.

The plan also must provide for:

1. offering shares to persons holding equity rights in the mutual holding company at a price greater than that charged others;

2. paying such persons consideration in cash, securities, a certificate of contribution, additional insurance under policies issued by a reorganized insurer, other consideration, or any combination of these;

3. any proposed fees, commission, or other consideration to be paid to people aiding, promoting, or assisting the conversion; and

4. the effective date of the conversion.

The plan may restrict anyone from directly or indirectly acquiring or offering to acquire 10% or more of any class of voting stock of the converted company or any entity that controls it.

No one may receive any fee, commission, or other consideration, other than his or her usual salary and compensation, to aid, promote,

or assist in the conversion, except as described in the approved plan. This does not prohibit paying reasonable fees and compensation to attorneys, accountants, and others who are directors or officers of the converting company for services they perform in the independent practice of their professions.

These provisions do not bar the management or an employee group of a converting company, an intermediate holding company, or the reorganized insurer from buying, with cash, stocks not taken by people with preemptive rights. The management or employee group must pay the same price offered to people holding equity rights.

To approve the conversion plan, the insurance commissioner must find that the company has not (1) reduced, limited, or affected the number or identity of its members or persons holding equity rights entitling them to participate in the plan by the Connecticut company by reducing the volume of new business written, cancelling policies, or other means or (2) otherwise given or sought or attempted to give the company's management any unfair advantage through the plan by other means.

The bill's provisions do not prohibit the management or employee group of the converting company, intermediate holding company, or reorganized insurer from buying, with cash, stock not taken by preemptively by people holding equity rights. These purchases must be (1) made in accordance with reasonable classifications of these individuals and (2) at the same price offered to the public in any public offering.

A disapproval of the plan must be in writing, describing the reasons for the denial. The company has 15 days to request a hearing before the commissioner, which must be held within 15 days after the request.

The bill requires the company to file the approved plan with the commissioner and submit it to a vote of its members in the same way as described above for a mutual insurer reorganization plan.

If the members approve the plan, the conversion goes into effect on the date specified in the plan. At that point, the converting company becomes a Connecticut stock corporation and its rights and properties are automatically transferred to the corporation, which also succeeds to all of the converting company's obligations and liabilities. In addition, all membership interests and equity rights in the Connecticut mutual holding company are extinguished.

§ 12(b) — Limits on Actions

Time Limits. Generally, actions concerning any proposed or approved plan of reorganization or any plan amendment or proposed plan amendment, must begin (1) one year after the plan or amendment is filed with the commissioner or (2) if the plan or amendment has gone into effect, six months from the effective date of the plan or amendment, whichever is later. If the plan or amendment is withdrawn, the actions must begin within six months from the withdrawal date.

Actions arising out of a transfer of assets or liabilities or an offering of voting stock that was not contemplated by the plan must begin within one year from the transfer or offering.

Actions concerning any proposed or approved plan of conversion and related acts must begin within one year after the plan is filed with the commissioner or six months from its effective date, whichever is later.

Security. In any of the above actions, any party bringing the suit, under certain circumstances, must give adequate security for the damages and reasonable expenses, including attorneys' fees, that defendants may incur as a result of, or in connection with, the action or for which the company may become liable. This provision applies when (1) the mutual holding company, reorganizing insurer, reorganized insurer, or an intermediate stock holding company makes a motion and (2) the court finds there is a substantial likelihood that the action is brought without merit and with an intention to delay or

harass. The court determines the amount to which the mutual holding company, reorganizing insurer, reorganized insurer or an intermediate stock holding company has access upon the termination of the action. The court can increase or decrease the amount of security upon a showing that it has or may become inadequate or excessive.

Stays. Any action seeking a stay, restraining order, injunction, or similar remedy to prevent or delay the closing of any transaction under the bill or a transaction under a reorganization or conversion plan must begin within 30 days after the commissioner approves the transaction or plan.

Any action or proceeding against the commissioner or other government officer or body regarding orders issued or actions taken under the bill must begin within 30 days after the order or action.

§ 13 — Confidentiality of Information

The bill generally makes information, documents, and copies of them obtained by or disclosed to the commissioner or any other person in the course of preparing, filing, and processing an application under the bill:

1. confidential by law and privileged,
2. not subject to disclosure under the Freedom of Information Act,
3. not subject to subpoena, and
4. not subject to discovery or admissible in evidence in any civil action.

The commissioner may make this information, documents, and copies public without the relevant insurer's prior written consent, only if he (1) gives the insurer and its affected subsidiaries and affiliates notice and opportunity to be heard and (2) determines that the interests of members, policyholders, security holders, or the public will be served by publishing the information, documents, and copies. If he does, the commissioner may publish all or any part of the information,

documents, and copies in a way he considers appropriate. The commissioner may use the information, documents, and copies to further any regulatory or legal action brought as part of the commissioner's official duties.

The confidentiality provisions do not apply to information or documents distributed to, or filed or submitted as evidence in connection with, a public hearing under the bill.

§§ 16-26 — ALIEN INSURERS ESTABLISHING BRANCHES IN CONNECTICUT

§ 18(b) — Application Requirements

Before authorizing an alien insurer to enter the U.S. through Connecticut, the commissioner must, in addition to the existing requirements of state insurance law, require the alien insurer to:

1. obtain a license as an insurer and submit an English translation, as necessary, of any of the documents needed to comply with this requirement and

2. submit to an examination of its affairs at its principal U.S. office, although the commissioner may accept a report of the insurance supervisory official of the insurer's home jurisdiction.

§ 20(a)(b) — Licensing

Before issuing any new or renewal license to a branch, the commissioner may require satisfactory proof, (1) in the insurer's charter, (2) by an agreement evidenced by a certified resolution of its board of directors, or (3) otherwise as the commissioner may require, that the branch and the insurer will not engage in any insurance business in violation of the bill or not authorized by its charter.

The commissioner must renew a branch's license if he is satisfied that (1) neither the insurer nor the branch is in violation of the bill's requirements and (2) the renewal will not be hazardous or prejudicial to the best interests of the people of this state.

§ 20(c)(d) — Restrictions on Types of Business

The commissioner cannot authorize a branch to transact (1) any kind of insurance business in which Connecticut insurers may not engage or (2) the business of insurance in Connecticut if it transacts, anywhere in the United States, any type of insurance or incidental business other than the business it seeks to transact in Connecticut. For example, if a branch seeks to provide only life insurance in Connecticut, it cannot provide health insurance in another state.

The commissioner cannot authorize or reauthorize a branch to transact business in Connecticut if it fails to (1) substantially comply with any of the bill's provisions the commissioner determines are needed to protect the interests of its U.S. policyholders or (2) keep complete and accurate records of its insurance transactions, which it must make available for the commissioner's inspection at its principal office.

§ 18(a) — Trust Account

The alien insurer must establish a trust account, pursuant to a trust agreement the commissioner approves, with a U.S. financial institution in an amount at least equal to the (1) minimum capital and surplus or (2) minimum capital, adjusted for risk, whichever is greater, that a Connecticut insurer licensed for the same kind of insurance must maintain. Generally, the alien insurer must maintain this minimum amount in the account at all times. But, the deed of trust or an amendment to it may provide for withdrawals under specified circumstances described below.

§ 18(c)(1)(4) — Deed of Trust

The trust agreement must describe its terms in a deed of trust. The deed and subsequent amendments to it must be authenticated in a way the commissioner prescribes.

The deed of trust must:

1. vest legal title to trust assets in the trustees and their lawfully appointed successors;

2. require all assets deposited in the trust to be continuously kept in the United States;

3. provide for substitution of a new trustee in case of a vacancy, subject to the commissioner's approval;

4. require the trustees to continuously maintain a record sufficient to identify the fund's assets;

5. require trust assets to consist of cash or investments, or both, and accrued interest if collectable by the trustees;

6. require the trust to be for the exclusive benefit, security, and protection of the U.S. branch's policyholders, or U.S. policyholders and creditors; and

7. require that the trust be maintained as long as the alien insurer has any outstanding liability arising out of its U.S. insurance transactions.

In addition, the deed of trust must provide that the trustees may not make or permit any asset withdrawals without the commissioner's approval. However, withdrawals may be made without approval to:

1. make deposits required by law in any state for the security or benefit of all U.S. policyholders, or the branch's U.S. policyholders and creditors;

2. substitute other assets permitted by law and at least equal in value and quality to those withdrawn, upon the specific written direction of the branch manager when duly empowered and acting under general or specific written authority previously given or delegated by the branch's board of directors; or

3. transfer assets to an official liquidator or rehabilitator pursuant to an order of a court of competent jurisdiction.

Assets can also be withdrawn without the commissioner's approval if (1) they are deposited in another state and (2) the deed of trust

requires the written approval of that state's insurance regulatory official for further withdrawals. The minimum amount of trust assets must still be maintained and the U.S. branch manager must notify Connecticut's insurance commissioner of the nature and amount of the withdrawal.

In addition, the deed of trust may provide that income, earnings, dividends, or interest accumulations on the fund's assets may be paid to the branch manager upon request as long as the total trust assets are at least the amount required by the bill.

§ 18(c)(2)(3) — Commissioner's Approval of Deed of Trust

A deed of trust or amendment to it does not go into effect until the commissioner approves it. The commissioner cannot approve the document unless he finds that it is (1) sufficient in form and conforms with applicable laws and (2) adequate to protect the interests of the trust's beneficiaries. He also must find that the account's trustees are eligible to serve in this role.

The commissioner can withdraw his approval if he finds, after notice and hearing, that the deed of trust no longer meets the conditions for approval. He can approve modifications or variations in the deed of trust so long as he determines that they are not prejudicial to the interests of state residents or the branch's U.S. policyholders or creditors.

§§ 18(d)(e), 20(e) — Commissioner's Powers

The commissioner may:

1. examine the trust assets of any authorized U.S. branch, at the alien insurer's expense;

2. require the trustees to file a statement, in a form the commissioner prescribes, certifying the amounts and assets in the trust fund;

3. revoke the alien insurer's insurance license or liquidate the U.S.

branch if a trustee violates or refuses to comply with the bill's provisions; and

4. commence an insolvency proceeding against a U.S. branch whose condition is such, based on the quarterly or annual statements or a report indicating that its trust account balance has fallen below the minimum required level, that continuing in business would jeopardize its U.S. policyholders, creditors, or the public.

§ 19 —Reporting Requirements

The bill requires the branch to file two types of annual and quarterly statements with the commissioner and NAIC. In both cases, an annual statement must be filed by March 1 annually and quarterly statements by May 15, August 15, and November 15. In addition to the information described below, both types of statements must include any information the commissioner requires relating to the insurer's total business or assets, or any part of them.

The first type of statement covers the (1) U.S. insurance business the branch transacted, (2) the assets held by or for the branch within the United States to protect U.S. policyholders and creditors, and (3) the liabilities incurred against these assets. The statement may not contain any information regarding the alien insurer's or its branch's assets and business outside the United States. The statements must be in the same format required of an insurer domiciled in Connecticut and licensed to write the same kinds of insurance.

The second type of statement describes the amount of the trusteed surplus. The "trusteed surplus" is the total value of the branch's general state deposits and assets in the trust account, plus accrued investment income on them where the state collects this interest for the trustees, minus the total net amount of the branch's U.S. reserves and other liabilities. The branch must modify this amount using the procedure described below under "Trusteed Surplus."

A manager, attorney-in-fact, or authorized assistant manager of the

U.S. branch must sign and verify the annual statements. The trustees of a trust that holds securities and other property must certify these holdings in the annual statement of trusteed surplus.

Each examination report of the U.S. branch must include a statement of the trusteed surplus as of the date of the examination in addition to the general statement of the branch's financial condition.

§§ 17, 19(a)(2) — Trusteed Surplus

For the annual and quarterly statements on the net amount of its trusteed surplus, the branch must add back the liabilities used to offset admitted assets reported on the corresponding report. The branch must then deduct:

1. unearned premiums on insurance producers' balances or uncollected premiums up to 90 days past due, up to the unearned premium reserves carried on them;

2. reinsurance on losses with authorized insurers, less unpaid reinsurance premiums;

3. reinsurance recoverables on paid losses from unauthorized insurers that are included as assets in the corresponding statement, but only to the extent a liability for the unauthorized recoverables is included in the liabilities report in the trusteed surplus statement;

4. special state deposits held in any state for the exclusive benefit of the branch's policyholders, or policyholders and creditors, not exceeding net liabilities reported by the branch for that state;

5. secured accrued retrospective premiums;

6. for life insurers, (a) the amount of its policy loans to U.S. policyholders, up to the amount of legal reserve required on each policy and (b) the net amount of uncollected and deferred premiums; and

7. any other non-trusteed asset that the commissioner determines secures liabilities in a substantially similar manner.

§ 21 — Domestication of the Branch

The bill establishes a procedure under which an alien insurer can domesticate its Connecticut-licensed U.S. branch. Doing so requires the commissioner's prior written approval.

The alien insurer must enter into a written agreement with a Connecticut insurer under which the Connecticut insurer will succeed to all the branch's business and assets and assume all of its liabilities. The alien insurer must approve the agreement under the laws of the country where it is organized. The Connecticut insurer's president or vice-president must execute the agreement, its board of directors must approve it, and its secretary must certify the agreement under the insurer's corporate seal.

The insurers must submit their respective copies of the executed agreement and certified copies of their corporate proceedings approving it to the commissioner. The commissioner must approve the agreement if he finds that (1) it complies with the bill's requirements and (2) it will not materially harm the interests of the branch's policyholders and the Connecticut insurer. The commissioner must approve or disapprove the agreement with 60 days after receiving the later of the insurer's submissions.

The alien or Connecticut insurer must file a certified copy of the instrument of transfer and assumption of assets and liabilities. The instrument must be in a form satisfactory to the commissioner and executed by an authorized representative of each insurer.

The transfer is effective upon the commissioner's approval and the filing of the instrument with the commissioner. At that point, all of the branch's rights, franchises, and interests in property and all of its liabilities and actions related to it are transferred to the Connecticut insurer.

The commissioner must direct the trustee of the branch's trusteed assets to pay or transfer them to the Connecticut insurer. All deposits of the branch held by the commissioner, or by state officers or other state regulatory agencies, must be deemed to be held as security for the satisfaction by the Connecticut company of all liabilities to be assumed from the branch. The deposits must be (1) deemed to be assets of the Connecticut insurer and (2) reported as such in the annual financial statements and other reports the Connecticut insurer must file. Upon the ultimate release of the deposits by the commissioner, state officer, or regulatory agency, the cash or securities constituting the released deposit must be paid or delivered to the Connecticut insurer as lawful successor to the branch.

A number of laws refer to the age of a company. With regard to these laws, the age of the Connecticut insurer is the age of the older of the two companies involved in the agreement.

§ 22 — Trusteed Surplus for Alien Insurers

By law, an alien property, marine, or casualty insurance company cannot be licensed to transact business in Connecticut unless it has a trusteed surplus that is at least as great as that required for similar out-of-state insurance companies. The bill makes a conforming change redefining "trusteed surplus" for this purpose.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 19 Nay 0 (03/13/2014)